100th Congress
1st Session

COMMITTEE PRINT

WMCP:
100-17

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

WRITTEN COMMENTS

ON

CERTAIN TARIFF AND TRADE BILLS

VOLUME I

JUNE 30, 1987

Printed for the use of the Committee on Ways and Means by its staff

---

U.S. GOVERNMENT PRINTING OFFICE

74-808 WASHINGTON : 1987

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

H782-33

74-808 - 87 - 1

COMMITTEE ON WAYS AND MEANS

DAN ROSTENKOWSKI, Illinois, *Chairman*

SAM M. GIBBONS, Florida
J.J. PICKLE, Texas
CHARLES B. RANGEL, New York
FORTNEY H. (PETE) STARK, California
ANDY JACOBS, JR., Indiana
HAROLD FORD, Tennessee
ED JENKINS, Georgia
RICHARD A. GEPHARDT, Missouri
THOMAS J. DOWNEY, New York
FRANK J. GUARINI, New Jersey
MARTY RUSSO, Illinois
DON J. PEASE, Ohio
ROBERT T. MATSUI, California
BERYL ANTHONY, JR., Arkansas
RONNIE G. FLIPPO, Alabama
BYRON L. DORGAN, North Dakota
BARBARA B. KENNELLY, Connecticut
BRIAN J. DONNELLY, Massachusetts
WILLIAM J. COYNE, Pennsylvania
MICHAEL A. ANDREWS, Texas
SANDER M. LEVIN, Michigan
JIM MOODY, Wisconsin

JOHN J. DUNCAN, Tennessee
BILL ARCHER, Texas
GUY VANDER JAGT, Michigan
PHILIP M. CRANE, Illinois
BILL FRENZEL, Minnesota
DICK SCHULZE, Pennsylvania
BILL GRADISON, Ohio
WILLIAM M. THOMAS, California
RAYMOND J. McGRATH, New York
HAL DAUB, Nebraska
JUDD GREGG, New Hampshire
HANK BROWN, Colorado
ROD CHANDLER, Washington

ROBERT J. LEONARD, *Chief Counsel*
M. KENNETH BOWLER, *Staff Director*
A.L. SINGLETON, *Minority Chief of Staff*

SUBCOMMITTEE ON TRADE

SAM M. GIBBONS, Florida, *Chairman*

DAN ROSTENKOWSKI, Illinois
ED JENKINS, Georgia
THOMAS J. DOWNEY, New York
DON J. PEASE, Ohio
MARTY RUSSO, Illinois
RICHARD A. GEPHARDT, Missouri
FRANK J. GUARINI, New Jersey
ROBERT T. MATSUI, California

PHILIP M. CRANE, Illinois
BILL ARCHER, Texas
GUY VANDER JAGT, Michigan
BILL FRENZEL, Minnesota
DICK SCHULZE, Pennsylvania

CONTENTS

Page

Press release No. 3 of Friday, February 13, 1987, announcing request for written comments on certain tariff and trade bills v

H.R. 3, Title VIII:

Ablondi, Italo H., F. David Foster, and Sturgis M. Sobin, Rhone-Poulenc Inc., joint statement 42

Allegheny General Hospital, American Medical International, Inc., Baptist Hospital, Inc., Dornier Medical System, Inc., ESWL Group, Georgia Baptist Medical Center, Greenville Hospital Systems, Hospital Corporation of America, Norfolk General Hospital, Orange County Kidney Stone Center, Inc., St. Francis Xavier Hospital, St. John's Regional Health Center, Southeastern Kidney Institute, Springhill Memorial Hospital, Wuesthoff Memorial Hospital, joint statement 1

Allegheny General Hospital, American Medical International, Inc., Baptist Hospital, Inc., Dornier Medical Systems, Inc., ESWL Group, Georgia Baptist Medical Center, Greenville Hospital System, Hospital Corporation of America, Maryland Kidney Stone Center Limited Partnership, Norfolk General Hospital, Orange County Kidney Stone Center, Inc., St. Francis Xavier Hospital, St. John's Regional Health Center, Southeastern Kidney Institute, Springhill Memorial Hospital, Wuesthoff Memorial Hospital, joint statement 3

American Association of Exporters and Importers, Eugene J. Milosh, letter 7

American Library Association, statement 8

American Public Power Association, Larry Hobart, letter 9

Auerbach, John, Cycle Parts and Accessories Association, Inc., statement 14

Baucom, Tyndall L., Virginia Electric and Power Company, letter 77

Bicycle Manufacturers Association of America, Inc., Thomas F. Shannon and Michael R. Kershow, joint letter 10

Bristol-Myers U.S. Pharmaceutical and Nutritional Group, Scott D. Litherland, letter 13

Cox, Eddie R., Sharp Manufacturing Company of America, statement 52

Cycle Parts and Accessories Association, Inc., John Auerbach, statement 14

Diversified Products Corporation, Richard L. Jenkins, statement and attachments 17

Edison Electric Institute, statement 34

Foster, F. David, Italo H. Ablondi, and Sturgis M. Sobin, Rhone-Poulenc Inc., joint statement 42

Hobart, Larry, American Public Power Association, letter 9

Jenkins, Richard L., Diversified Products Corporation, statement and attachments 17

Kershow, Michael R., and Thomas F. Shannon, Bicycle Manufacturers Association of America, Inc., joint letter 10

Litherland, Scott D., Bristol-Myers U.S. Pharmaceutical and Nutritional Group, letter 13

Milosh, Eugene J., American Association of Exporters and Importers, letter 7

New York Power Authority, statement 35

Northeast Utilities, statement 36

Pawsat, Carlton P., Wald Manufacturing Company, Inc. (Section 821), statement, and (Section 850), statement and attachment 79

Perkins, Hon. Carl C., a Representative in Congress from the State of Kentucky, statement 37

Recordings Import Trade Committee, Robert Taft, Jr., statement 40

Page
Rhone-Poulenc Inc., Italo H. Ablondi, F. David Foster, and Sturgis M. Sobin, joint statement 42
Roggensack, Margaret Ellen, and Burton V. Wides, Toshiba America, Inc., statement and attachments 58
Shannon, Thomas F., and Michael R. Kershow, Bicycle Manufacturers Association of America, Inc., joint letter 10
Sharp Manufacturing Company of America, Eddie R. Cox, statement 52
Sheehan, John J., United Steelworkers of America, AFL-CIO, statement .. 77
Sobin, Sturgis M., Italo H. Ablondi, and F. David Foster, Rhone-Poulenc Inc., joint statement 42
Taft, Robert, Jr., Recordings Import Trade Committee, statement 40
Toshiba America, Inc., Burton V. Wides and Margaret Ellen Roggensack, statement and attachments 58
United Steelworkers of America, AFL-CIO, John J. Sheehan, statement ... 77
Virginia Electric and Power Company, Tyndall L. Baucom, letter 78
Wald Manufacturing Company, Inc. (Section 821), Carlton P. Pawsat, statement, (Section 850), Carlton P. Pawsat, statement and attachment . 79
Wides, Burton V., and Margaret Ellen Roggensack, Toshiba America, Inc., statement and attachments 58
H.R. 34: Heidelberg Eastern, Inc., Leonard Lehman, statement and attachments 85
H.R. 35: No statements submitted.
H.R. 36: No statements submitted.
H.R. 305: No statements submitted.
H.R. 346: West Mexico Vegetable Distributors Association, T. Albert Yamada, letter and attachment 92
H.R. 350: No statements submitted.
H.R. 513: No statements submitted.
H.R. 583: No statements submitted.
H.R. 590: Briarcliffe Marketing, Inc., Joan M. Fyk, et al., letter 97
H.R. 590 and H.R. 928:
Acme Premium Supply Corporation, Robert V. Dawson, letter 98
Allentown Toy Manufacturing Company, Nancy Hertz Kirschen, letter 99
Coleco Industries, Inc., Michael S. Schwefel, letter 100
Colunga, Victor R., R. Dakin & Company, letter 102
Dawson, Robert V., Acme Premium Supply Corporation, letter 98
Hasbro, Inc., Steven L. Rodyn, statement (identical statement submitted on H.R. 928) 105
Kenner Products, Gary Kleven, letter and attachment 109
Kirschen, Nancy Hertz, Allentown Toy Manufacturing Company, letter 99
Kleven, Gary, Kenner Products, letter and attachment 109
R. Dakin & Company, Victor R. Colunga, letter 102
Rodyn, Steven L., Hasbro, Inc., statement 105
Schwefel, Michael S., Coleco Industries, Inc., letter 100
Smith, Irving W., Jr., Worlds of Wonder, Inc., letter and attachment 127
Toy Manufacturers of America, Inc., Douglas Thomson, letter 121
Worlds of Wonder, Inc., Irving W. Smith, Jr., letter and attachment 127
H.R. 591: No statements submitted.
H.R. 604: No statements submitted.
H.R. 684: No statements submitted.
H.R. 748: No statements submitted.
H.R. 750:
Association of Floral Importers of Florida, Dwight Haight, statement 135
Florists' Transworld Delivery Association, Jimmy Williams, statement 137
Panetta, Hon. Leon E., a Representative in Congress from the State of California, statement 138
Roses Incorporated, James C. Krone, statement and attachment 141
Transamerica Floral Imports, and Visaflor S.A., Leslie Alan Glick, statement 151
H.R. 794: No statements submitted.
H.R. 894:
Latex Glove Co., Inc., Richard A. Rivkin, statement and attachments 154
Shelby Group International, Inc., Hilliard Crews, letter 184
West Chester Marketing, Inc., and West Chester Sales and Marketing, Inc., Richard L. Alderson, letter 186
Work Glove Manufacturers Association, statement 189
H.R. 917: No statements submitted.
H.R. 944: No statements submitted.

FOR IMMEDIATE RELEASE
FRIDAY, FEBRUARY 13, 1987

PRESS RELEASE #3
SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-3943

THE HONORABLE SAM M. GIBBONS (D., FLA.), CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES REQUEST FOR WRITTEN COMMENTS ON CERTAIN TARIFF AND TRADE BILLS

The Honorable Sam M. Gibbons (D., Fla.), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee on Trade is requesting written testimony for the record from all interested parties on the miscellaneous tariff and trade bills listed below. For bills included in H.R. 3 or H.R. 5686 from the 99th Congress, the Subcommittee is not soliciting comments because we already have complete records on them. However, anyone wishing to provide additional comments on these bills may do so. In addition, it is the Committee's intention to include all of the miscellaneous tariff bills contained in H.R. 5686 among the provisions of H.R. 3.

A determination regarding further scheduling of public hearings or other Subcommittee action on any of these bills will not be made until after the close of this public comment period.

The tariff and trade bills on which written testimony will be received are:

H.R. 3 (Mr. Gephardt, et al): Title VIII, Tariff and customs provisions.

Duty Reduction Bill

H.R. 34 (Mr. Frenzel): To lower for a 2-year period the column 2 duty on certain large offset printing machines.

Duty Suspension Bills

H.R. 35 (Mr. Frenzel): To provide for temporary duty-free treatment for cyclosporine.

H.R. 36 (Mr. Frenzel): To continue the existing temporary duty-free treatment of certain coarse wools until the close of December 31, 1992.

H.R. 305 (Mrs. Boggs): To provide permanent duty-free entry for certain mixtures of hot red peppers and salt.

H.R. 346 (Mr. de la Garza): Relating to the tariff treatment of fresh cantaloupes imported between January 1 and May 15 of any year.

H.R. 590 (Miss Schneider): To extend until January 1, 1992, the existing suspension of duty on stuffed dolls, certain toy figures, and the skins thereof.

H.R. 604 (Mr. Torricelli): To extend duty-free treatment to certain chemicals.

H.R. 684 (Mr. Ravenel): To amend the Tariff Schedules of the United States to continue the suspension of any duty on menthol feedstocks.

H.R. 748 (Mr. Frenzel): To suspend for a nine-month period the duty on certain mixtures of cross-linked sodium polyacrylate polymers.

(MORE)

H.R. 794 (Mr. Jacobs): To permit free entry into the United States of the personal effects, equipment, and other related articles of foreign participants, officials, and other accredited members of delegations involved in the games of the Tenth Pan American Games to be held in Indianapolis, Indiana, in 1987. (Supersedes H.R. 167.)

H.R. 917 (Mr. Vander Jagt): To provide for a temporary suspension of duty on sethoxydim for a period of three years.

H.R. 928 (Mr. Gradison and Miss Schneider): To suspend temporarily the duty on certain stuffed or filled toy figures until January 1, 1993.

H.R. 944 (Mr. Vander Jagt): To suspend for a three-year period the duty on 3-Ethylamino-p-cresol.

Duty Increase Bill

H.R. 350 (Mr. Gilman): To provide equitable treatment for certain fresh vegetables produced in the United States.

H.R. 513 (Mr. Rahall): To offset the competitive advantage which foreign producers have as a result of not having to meet environmental, health, welfare, and safety requirements of the kinds imposed on United States coal producers, and for other purposes.

H.R. 750 (Mr. Panetta): To amend the Tariff Schedules of the United States to provide for rates of duty on imported roses consistent with those maintained by the European Economic Community on imports of roses from the United States and other nations.

Classification Bills

H.R. 591 (Mr. Schulze): Relating to the tariff classification of slabs of iron or steel.

H.R. 894 (Mr. Duncan): Relating to the tariff classification of certain work gloves.

Customs and Other Non-tariff Matters Bill

H.R. 583 (Mr. Perkins): To continue until January 1, 1991, the present exclusion of bicycle component parts which are not re-exported from the exemption from the customs laws otherwise available to merchandise in foreign trade zones.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Persons submitting written comments should submit six (6) copies by the close of business, Friday, March 6, 1987, to Joseph K. Dowley, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515.

SEE ENCLOSED FORMATTING REQUIREMENTS.

* * * * * * * * * * *

COMMENTS IN SUPPORT OF LEGISLATION CONCERNING THE TARIFF CLASSIFICATION OF LITHOTRIPTERS (H.R. 1160 and amendment of H.R. 3)

Amendments to the Tariff Schedules of the United States to Reclassify Extracorporeal Shock Wave Lithotripters

---

These comments are submitted by the undersigned organizations, 14 health care providers which are importers of 29 extracorporeal shock wave lithotripters, and a service organization. These organizations seek the reclassification of lithotripters in the Tariff Schedules of the United States.

Lithotripters are a revolutionary advance in kidney stone treatment, destroying the stones by shock waves from outside the body. The sole manufacturer whose machine is approved by the Food and Drug Administration for patient treatment is outside the United States.

H.R. 1160 provides for reclassification of lithotripters, as did H.R. 5686 in the 99th Congress. The Ways and Means Committee has proposed to add the provisions of that H.R. 5686 to H.R. 3 in the current Congress.

These comments support:

First, inclusion of H.R. 1160 in miscellaneous special tariff legislation, to expedite and simplify the legislative process as to this non-controversial legislation,

Second, inclusion of H.R. 1160 in H.R. 3, if miscellaneous special tariff legislation is to be added to H.R. 3, because H.R. 1160 adjusts the retroactive date to correct an unfairness,

Third, only as an alternative, inclusion of the provisions of H.R. 5686, 99th Cong., in H.R. 3.

Reclassification of the onerous duties imposed on this important new medical equipment is required for the following reasons:

1. To Solve A Common Health Problem

Kidney stone disease is a common and costly problem among American adults, for which 300,000-400,000 people are hospitalized in the U.S. each year. Extracorporeal shock wave lithotripsy (ESWL) is a dramatic new technology for treating kidney stone disease. It utilizes a kidney lithotripter to pulverize kidney stones by shock waves directed at the stones through tissue in a non-invasive procedure. It eliminates the need for surgery in most cases, is far more comfortable for the patient, and reduces recovery time.

2. To Cut Medical Costs

Because lithotripter therapy replaces surgery, it eliminates surgical expense, reduces hospital stays and reduces the consumption of hospital resources. This greatly reduces the cost of treating kidney stone disease. An important part of this cost saving is reflected in the reduction of Medicare and Medicaid payments.

The reduction is estimated at from $2,000 to $5,000 per patient. It is estimated that from 120,000 to 160,000 Americans undergo kidney stone surgery each year. Thus the potential cost saving is enormous.

3. No U.S. Source

No United States manufacturer has a marketable lithotripter at this time. West Germany's Dorniermedizintechnik GmbH is the only company in the world whose lithotripter is approved for patient treatment in the United States. The machine costs approximately $2 million. The erroneous and counterproductive impositions of duty described below increase the cost of each machine to the hospitals by from $75,000 to $120,000 each.

4. To Right a Customs Classification Error

Customs, confounding long-established principles of tariff classification and claiming that lithotripters are surgical instruments instead of the therapeutic devices they actually are, has erroneously placed the lithotripter and its parts in item 709.15 Tariff Schedules of the United States (TSUS). That item number currently carries an import duty of 7.9%. In 1985 and 1986, when a great number of lithotripters were imported into this country, the duty rates were even higher, 10.4% and 9.2%, respectively. The results of such a prohibitively high import duty are to put the lithotripter out of the range of acquisition for many health care providers and to raise the price of treatment by the providers which can acquire the machines. Both reduce the number of U.S. kidney stone patients who can gain access to ESWL and its curative benefits, increase the cost to society and, in the case of Medicare and Medicaid patients, the cost to the Government as well.

The commenting organizations all support the permanent reclassification of lithotripters and their parts, by omitting them from item 709.15 (TSUS), to effect their classification in item 709.17 (TSUS), currently carrying a duty rate of 4.2%, having carried a rate of 4.4% during 1986 and 4.7% during 1985. That duty rate produces sufficient revenue for the Treasury while substantially reducing the total cost to importers, allowing health care providers to pass along the savings to patients and the Medicare/Medicaid programs. This assists in containing health care costs, and makes ESWL available to a greater number of people.

5. To Effect Retroactivity

The commenters recommend that legislation permanently changing the classification of lithotripters be retroactive to December 31, 1982, as provided in H.R. 1160. Lithotripters are new. It appears that no lithotripters were imported in 1983. In 1984, approximately six (6) lithotripters, which it is understood were for testing purposes, were imported. Forty-six (46) more entered the United States during 1985 and 71 during 1986. Thus, to achieve a fair and comprehensive result in the passage of this bill, duty relief should be retroactive to December 31, 1982, to cover any lithotripters imported into the United States for patient treatment.

H.R. 5686 contained a retroactive provision, to July 31, 1985. The December 31, 1982 date will add few additional machines but assure fairness. Otherwise some health care providers will benefit from the legislation and others will not. It is important that Congress treat all lithotripter importers equally.

The Congress should act positively on lithotripter legislation. By doing so it will help the United States contain soaring health care costs, provide for more humane care and stimulate the medical community to provide much-needed innovative services.

Allegheny General Hospital
Pittsburgh, Pennsylvania

American Medical International, Inc.
Beverly Hills, California

Baptist Hospital, Inc.
Nashville, Tennessee

Dornier Medical Systems, Inc.
Atlanta, Georgia

ESWL Group
Buffalo, New York

Georgia Baptist Medical Center
Atlanta, Georgia

Greenville Hospital System
Greenville, South Carolina

Hospital Corporation of America
Nashville, Tennessee

Norfolk General Hospital
Norfolk, Virginia

Orange County Kidney Stone Center, Inc.
Garden Grove, California

St. Francis Xavier Hospital
Charleston, South Carolina

St. John's Regional Health Center
Springfield, Missouri

Southeastern Kidney Institute
St. Petersburg, Florida

Springhill Memorial Hospital
Mobile, Alabama

Wuesthoff Memorial Hospital
Rockledge, Florida

March 6, 1987

COMMENTS IN SUPPORT OF LEGISLATION
CONCERNING
DUTY SUSPENSION WITH REGARD TO LITHOTRIPTERS
(H.R. 1160 and amendment of H.R. 3)

Amendments to the Tariff
Schedules of the United States
to Suspend Duty on Extracorporeal Shock Wave Lithotripters

These comments are submitted by the undersigned organizations, 15 health care providers which are importers of 30 extracorporeal shock wave lithotripters, and a service organization. They supplement comments submitted on March 6, 1987, which supported tariff reclassification and retroactivity. (The March 6, 1987 comment group contained 14 health care providers. An additional provider, representing 1 lithotripter, is included in these comments.)

The commenting organizations seek duty suspension through December 31, 1987 for all lithotripter importers, by amendment to H.R. 1160, and inclusion of H.R. 1160 as amended, in a miscellaneous tariff provision bill.

These comments support:

First, amendment of H.R. 1160 as written to permit duty suspension for all lithotripters regardless of the importer's organizational structure,

Second, inclusion of H.R. 1160 with the recommended amendment, in a miscellaneous tariff provision bill.

Amendment of H.R. 1160 to provide for duty suspension for all importers is required for the following reasons:

1. To Make Beneficial Technology Accessible to More Health Care Providers:

As mentioned in comments filed on March 6, 1987, kidney stone disease is a common and costly problem among American adults. Extracorporeal shock wave lithotripsy (ESWL) is an effective replacement for surgery in most cases. It exposes the patient to less risk, is more comfortable for him, and reduces his recovery time. It ultimately cuts federal expense due to reduced Medicare and Medicaid payments. There is no United States source now nor is one anticipated in the near future.

The cost of a lithotripter is approximately $2,000,000. Many lithotripters were imported in 1985 and 1986, during which time duty rates were 10.4% and 9.2%, respectively. Duty is assessed this year at 7.9%. This means that duty on the importation of a lithotripter ranges from $158,000. to $208,000. Even at the current staged rate of 7.9%, such a large portion of total cost being attributable to duty inhibits a favorable buy decision by a would-be importer and impedes access to ESWL by many kidney stone disease suffers.

At the higher 1985 and 1986 rates, cost to the patient is greater than it would be if duty did not have to be recovered in treatment charges. Therefore, because of the cost factor, many providers which would otherwise buy a lithotripter may be prohibited and many patients who would benefit from treatment may find it inaccessible.

2. The provision should be amended to remove the distinction between profit and not-for-profit importers.

In the 99th Congress, Section 176 of H.R. 5686, a bill relating to certain tariff and customs matters, suspended duty for not-for-profit importers. H.R. 5686 was passed by the House of Representatives last fall. H.R. 1160 also provides for duty suspension for not-for-profit importers, but through December 31, 1987. Since ESWL is so beneficial to patients and because Medicare and Medicaid reimbursement costs for ESWL are less than reimbursement for surgical procedures reducing federal costs in the long-run, it is in the best interest of the American people for Congress to act to encourage kidney stone treatment by ESWL. There is no U. S. manufacturer to be harmed by suspending the duty on lithotripters to all importers. Any economic impact felt by duty suspension will be significantly offset by reduced government reimbursement payments, lower costs to health care providers and charges to patients. Therefore, it is the responsibility of Congress to suspend duties on all lithotripters, without regard to the organizational structure of the importer.

We recommend an amendment to H.R. 1160 as follows:

" (b) Subpart B of Part 1 of the Appendix to such Schedules is amended by inserting in numerical sequence the following new item:

"912.14	Extracorporeal shock wave lithotripters	Free		No change	On or before 12/31/87 "

A miscellaneous tariff provision bill is needed for the following reasons::

1. To ensure quick passage

It has been suggested that H.R. 3 be amended to include lithotripter legislation. H.R.3, a bill to enhance the competitiveness of American industry and for other purposes, contains many trade policy provisions which Congress needs to reflect upon carefully and discuss thoroughly over time. Our recommended tariff amendment is clearly beneficial to the American public and will not be enhanced by additional discussion. It will be most helpful to importers and kidney stone disease sufferers for favorable lithotripter legislation to be passed quickly so that cost savings can be implemented swiftly.

Traditionally, amendments to the Tariff Schedules of the United States are enacted by miscellaneous tariff provision bills. There is no need in this case to deviate from that tradition. It is the understanding of the commentors that

a miscellaneous tariff provision bill may be introduced into the House of Representatives in the very near future. We urge such legislation and in it the inclusion of favorable lithotripter provisions.

2. To alleviate administrative agency burden

The Customs Service has been devoting considerable resources to research of provisions affecting the classification of lithotripters. There is uncertainty as to where they are correctly classified under the existing tariff. Customs is also engaged in handling many administrative protests and the United States Court of International Trade will soon be receiving complaints connected with denied protests. Furthermore, the Department of Commerce has also devoted resources to consideration of applications filed under the Educational, Scientific and Cultural Materials Importation Act of 1966 (P.L. 89-651; 80 Stat. 897.) Both administrative agencies are pressed for resources and are operating under directives to use most efficiently that manpower which they do have.

Passing favorable lithotripter legislation will allow Customs and Commerce to reallocate their resources and thereby grant a further benefit to the American taxpayer. Thus, it is in the best interest of all concerned for Congress to effect favorable lithotripter legislation through the enactment of a miscellaneous tariff provision bill.

The Congress should enact duty suspension in a miscellaneous tariff provision bill. By so doing, it will contain soaring health care costs, stimulate the medical community to provide much-needed innovative services and provide for more humane care.

Allegheny General Hospital
Pittsburgh, Pennsylvania

American Medical International, Inc.
Beverly Hills, California

Baptist Hospital, Inc.
Nashville, Tennessee

Dornier Medical Systems, Inc.
Atlanta, Georgia

ESWL Group
Buffalo, New York

Georgia Baptist Medical Center
Atlanta, Georgia

Greenville Hospital System
Greenville, South Carolina

Hospital Corporation of America
Nashville, Tennessee

Maryland Kidney Stone Center Limited Partnership
Baltimore, Maryland

Norfolk General Hospital
Norfolk, Virginia

Orange County Kidney Stone Center, Inc.
Garden Grove, California

St. Francis Xavier Hospital
Charleston, South Carolina

St. John's Regional Health Center
Springfield, Missouri

Southeastern Kidney Institute
St. Petersburg, Florida

Springhill Memorial Hospital
Mobile, Alabama

Wuesthoff Memorial Hospital
Rockledge, Florida

March 12, 1987

EXIM American Association of Exporters and Importers
11 West 42nd Street, New York, NY 10036 (212) 944 2230

March 5, 1987

Honorable Sam M. Gibbons
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington, DC 20515

Re: Written Comments on Miscellaneous Tariff and Trade Bills

Dear Chairman Gibbons:

Founded in 1921, the American Association of Exporters and Importers (AAEI) represents approximately 1100 U.S. company-members engaged in the export, import and distribution of goods throughout the world. AAEI is a national association representing the interests of U.S. importers and exporters before Congress, the U.S. Trade Representative, the U.S. Customs Service and other administrative agencies.

The members of AAEI strongly endorse the passage of miscellaneous duty reduction and duty-suspension bills, including those found in H.R. 5686 from the 99th Congress and in H.R. 3. The items which are the subject of these bills, for the most part, are either ones which face no domestic competition or are used as components in products manufactured in the U.S. by U.S. companies. Lowering duties or suspending duties for a limited time will expand trade to the benefit of U.S. consumers and maintain the affected U.S. firm's competitiveness.

The Association believes that the best way to assure passage of these uncontroversial bills is to move them through Congress together as a piece of legislation separate from H.R. 3 or any omnibus trade bill. Many of the duty-suspension bills seek to reauthorize duty-free status which expired two years ago. Legislative attempts (H.R. 4800, H.R. 5686) to pass these bills last year were unsuccessful. Passage of these duty-suspension and duty-reduction bills would again be in doubt were they to become part of omnibus trade legislation which may or may not become law this year. Without Congressional approval of a continued suspension of duty deposits the U.S. Customs Service determined that beginning January 1, 1987 it had no choice but to collect the TSUS-specific duty on items previously entered duty-free or at reduced duty rates. Non-enactment of these tariff bills would unnecessarily maintain an increased workload on U.S. Customs and remove the predictability which U.S. importers require in their businesses. Even the deposit of estimated duties has a significant negative impact on smaller U.S. importers.

The Association, on behalf of its members, urges you Chairman Gibbons, and the other members of the Subcommittee on Trade, Committee on Ways and Means to create a separate legislative package, apart from any omnibus trade bill for these non-controversial duty-reduction and duty-suspension bills.

Sincerely,

Eugene J. Milosh
President

STATEMENT OF THE AMERICAN LIBRARY ASSOCIATION

to the Subcommittee on Trade

House Ways and Means Committee

in support of

Implementation of Nairobi Protocol

Title VIII, Chapter 3, Subtitle B of HR 3

March 6, 1987

The American Library Association, a nonprofit educational organization of 43,500 librarians, library trustees, and friends of libraries dedicated to the improvement of library services, strongly recommends early and favorable action on implementation of the Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials, as proposed in HR 3, with one proposed amendment.

ALA has been for some thirty years an active supporter of the original Florence Agreement and the many improvements in the Protocol such as the provisions relating to the handicapped. We regard the Agreement, now in force in some 90 countries, as an outstanding example of practical, effective and successful international cooperation in the fields of science, education and culture, providing substantial benefits in all countries in which it is in force.

We are disappointed, however, that HR 3 takes a step backward from the temporary legislation which had been in effect for thirty months and had provided unrestricted duty-free entry to audio, visual and microform materials pursuant to Annex C-1 of the Protocol.

The present bill implementing Annex C-2 of the Protocol is no substantial improvement, restricting as it does duty-free entry to these materials only if they are (1) certified by a federal agency as educational, scientific, or cultural in character, or (2) imported by or for the use of public or private institutions or associations and certified by the importer as educational, scientific or cultural in character. There is no justification for this discrimination against the newer media of communication, which serve the same purposes as the older printed media which are absolutely duty free under the original Agreement.

Libraries and educational institutions are not in the business of importing, but buy both their domestically produced and foreign audio, visual and microform materials from U. S. dealers who maintain stock. The certification process would cost more in paperwork than the saving in duty.

This brings us to the purpose of the remaining U. S. duties on these materials which would be applicable if the certification process is not used. These duties are already so low that they provide no protection to American producers (who incidentally have not asked for protection), but merely add substantial paperwork costs both for government agencies and importers.

We urge therefore that the provisions of the Educational, Scientific and Cultural Materials Act of 1982 with respect to audio, visual and microform materials be substituted for the provisions of section 883 of HR 3, with power given to the President to apply more restrictive provisions if damage to U. S. industry can be demonstrated. A resolution to this effect was passed by the ALA Council on July 10, 1985. A similar resolution on the Nairobi Protocol to the Florence Agreement was passed by the International Federation of Library Associations and Institutions (IFLA) on August 23, 1985.

Mr. Rostenkowski

AMERICAN PUBLIC POWER ASSOCIATION

2301 M STREET NW WASHINGTON DC 20037 • 202/775-8300

OFFICERS
President BILL D. CARNAHAN
President-elect JOE H. EKLIN
Vice President WALTER A. CARNEY
Treasurer C.M. PERKINS
Executive Director LARRY HOBART

DIRECTORS
RAY AZBELL
Sheffield, Alabama
JOSEPH BLAIN
Taunton, Massachusetts
WALTER A. CARNEY
Lincoln, Nebraska
BILL D. CARNAHAN
Riverside, California
DON COLLETTE
McMinnville, Tennessee
GERALD L. COPP
Wenatchee, Washington
E. LEON DAGGETT
Hamilton, Ohio
MOLLY DARKIS
Morganton, North Carolina
R. HARRY DAWSON
Oklahoma Municipal Power Authority
Edmond, Oklahoma
DALE DEN HERDER
Sioux Center, Iowa
JOE H. EKLIN
Jackson, Tennessee
ERNEST GEDDES
Tulare, California
GILBERT E. HANSON, JR.
Kansas Municipal Energy Agency
Mission, Kansas
HANDALL W. HARDY
Seattle, Washington
RICHARD HORKINS
Toronto, Ontario, Canada
EDWIN C. HOSKINS
Knoxville, Tennessee
GORDON W. HOYT
Anaheim, California
CARL LaMARCA
Alexandria, Minnesota
STEVE LOVELAND
Springfield, Oregon
ROYCE LYLES
Jacksonville, Florida
CAROLYN S. McNEIL
Utah Associated Municipal Power Systems
Sandy, Utah
WILLIAM MESCHER
Santee Cooper
Moncks Corner, South Carolina
TIM MORAWSKI
Holland, Michigan
ERNEST J. MULLEN
Kaukauna, Wisconsin
BOB NELSON
Denton, Texas
NORMAN NICHOLS
Los Angeles, California
REECE D. NIELSEN
Intermountain Power Agency
Murray, Utah
PAUL W. OSLER
Indiana Municipal Electric Association
Tipton, Indiana
C.M. PERKINS
Salt River Project
Phoenix, Arizona
GEORGE D. REICH
Plattsburgh, New York
CHARLES F. ROSSOLL
Norwich, Connecticut
ROBERT E. ROUNDTREE
Springfield, Missouri
DON E. SCHAFFELBERGER
Nebraska Public Power District
Columbus, Nebraska
E.C. SHREVE, JR.
Florida Municipal Utilities Association
Tallahassee, Florida
DONALD L. STORLEY
Municipal Electric Authority of Georgia
Atlanta, Georgia
WILLIAM G. TOBIN
Rock Rapids, Iowa

RECEIVED
MAR 10 1987
WAYS AND MEANS

March 5, 1987

The Honorable Sam M. Gibbons
Chairman
Subcommittee on Trade
Committee on Ways and Means
1111 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Gibbons:

The American Public Power Association, the national service organization representing more than 1,750 local publicly owned electric utilities, opposes the miscellaneous tariff provision contained in Section 817 of the omnibus trade legislation, H.R. 3, which would impose a $3 per pound import tariff on uranium hexafluoride (UF_6) that is imported for use in reactors in the United States from any country requiring that the uranium be converted to UF_6 prior to export.

This tariff would increase nuclear fuel costs for U.S. electric utilities that purchase uranium from foreign suppliers and result in higher electric bills for customers of those utilities. Imposition of such a tariff would also diminish competition in the international uranium market, which could result in even higher fuel costs for nuclear reactors in the long run.

APPA is particularly interested in this issue because 38 public power systems either own and operate or jointly own nuclear powerplants built and operated by other utilities. Other public power systems have executed life-of-unit agreements for capacity in nuclear powerplants, and still others purchase nuclear reactor-generated power at wholesale.

According to a 1986 report prepared by Thomas L. Neff, Principal Research Scientist at Massachusetts Institute of Technology, the $3 tariff will have an immediate price effect of $18 million annually on utilities that buy Canadian uranium. This cost will be passed on to electric consumers. Beyond this immediate dollar effect, the tariff may also trigger an increase in the market price of all domestic and foreign uranium. Again, this increase in fuel costs would be passed on to electric consumers.

In the interest of protecting electric consumers from unnecessary rate increases, and of promoting competition in the nuclear fuel market, APPA urges that the Trade Subcommittee delete Section 817 from H.R. 3.

Sincerely,

Larry Hobart
Executive Director

Collier, Shannon, Rill & Scott
Attorneys-at-Law
1055 Thomas Jefferson Street, N. W.
Washington, D. C. 20007

Telephone: (202) 342-8400
Telex: 440665 CSRS UI
Writer's Direct Dial Number

(202) 342-8580

Robert A. Collier (1917-1984)
Thomas F. Shannon
James F. Rill
William W. Scott
David A. Hartquist
James M. Nicholson (1928-1986)
Richard S. Silverman
R. Timothy Columbus
Lauren R. Howard
Paul D. Cullen
Kathleen E. McDermott
Michael D. Sherman
Mark L. Austrian
Jeffrey W. King
Joel Yohalem
John B. Williams
Paul C. Rosenthal
Gary Jay Kushner
Robert N. Steinwurtzel
James R. Loftis, III

Of Counsel
Sara Walsh Miller

Jeffrey L. Letter
Michael R. Kershow
Jeffrey S. Beckington
John L. Wittenborn
Judith L. Oldham
Patrick B. Fazzone
Jeanne M. Forch
Laurence J. Lasoff
Christopher J. MacAvoy
Kathleen Weaver Cannon
Patrick J. Coyne
Daniel J. Harrold
Randall J. Bramer
T. Michael Jankowski
Carol A. Mitchell
Frederick D. Baker
Joel M. Mitnick
K. Michael O'Connell
B. Michael Hodge
Mark D. Dopp
Mary T. Staley
Gerard P. Fox
W. Ashby Beal, Jr.
Robin H. Beeckman
Anne M. Coffey

March 6, 1987

The Honorable Sam M. Gibbons
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Representative Gibbons:

On behalf of the Bicycle Manufacturers Association of America, Inc. ("BMA"), we urge the Subcommittee on Trade to act favorably upon H.R. 3, the omnibus trade bill introduced by Senator Gephardt and others on January 6, 1987. In particular, BMA urges the Subcommittee to take favorable action on section 850 of H.R. 3, the principal purpose of which is to renew the provisions of the Tariff Schedules of the United States ("TSUS") suspending the regular customs duties on certain bicycle parts. This provision is of critical importance to the U.S. bicycle industry.

As you know, H.R. 3 is substantially identical to H.R. 4800, which passed the House of Representatives last year but could not be considered by the Senate before the adjournment of the 99th Congress. As you also know, the House also passed the miscellaneous tariff provisions in H.R. 4800 as a separate bill (H.R. 5686) when it appeared certain that the Senate would be unable to act on the omnibus bill, but that miscellaneous bill also failed to receive consideration by the Senate before the end of the Congress. Provisions substantially identical to section 850 of H.R. 3 were present in both H.R. 4800 and H.R. 5686; in fact, the provisions last year were sponsored by the Ways and Means Committee chairman, Representative Rostenkowski. The provisions were noncontroversial then and remain noncontroversial now, and should receive favorable consideration by the Subcommittee.

The purpose of the bicycle part duty suspension provisions has been amply articulated by BMA and others in comments filed in connection with last year's bill. The purpose of the bicycle part duty suspension provisions can be summarized here in one

word that has received a great deal of attention in the 100th Congress: competitiveness. The basic purpose of TSUS items 912.05 and 912.10 — the bicycle part duty suspension provisions — is to increase the competitiveness of the U.S. bicycle industry by suspending the regular U.S. customs duties on bicycle parts no longer manufactured in the United States. The repeated passage of this temporary duty suspension legislation since 1971 indicates Congress' recognition that sound trade policy requires that import duties not be imposed on raw materials needed by U.S. manufacturing industries where those materials are not domestically available. This is particularly true where the regular duties on the raw materials are often higher than the finished product in question, as is the case with respect to bicycles. If duties are not suspended in such a circumstance, the only result is to put the U.S. industry at a competitive disadvantage vis-a-vis imports of the finished product. We are pleased to see a growing consensus emerging in the Congress that the United States should actively seek to remove such obstacles to the international competitiveness of U.S. industries.

It bears noting that duty suspension has never been more crucial to the competitiveness of the U.S. bicycle industry than it is today. Imports of bicycles in 1986 captured a record 57.1 percent of the U.S. market, compared to an import penetration ratio of only 23.1 percent in 1982. In the experience of the undersigned, few (if any) domestic industries have been subjected to a more intense assault by imports than the U.S. bicycle industry. While there is some hope that import growth will slow this year in response to long overdue adjustments in exchange rates, BMA still sees imports rising to 60 percent of the U.S. bicycle market by the end of 1987. Without the prompt renewal of duty suspension, imported bicycles' share of the U.S. market could well climb much higher.

Unfortunately, with the expiration of TSUS items 912.05 and 912.10 last June 30 and Congress' failure to renew the legislation by the end of the 99th Congress, the U.S. bicycle industry has already begun to feel the adverse competitive impact of having to pay duties on bicycle parts — in some cases, for the first time in 15 years. That impact has been felt most tangibly since January 1 of this year, when the U.S. Customs Service began collecting deposits of the regular customs duties on entries of products under TSUS items 912.05 and 912.10, as well as other temporary duty suspension provisions, effective with entries made on or after January 1. This action came despite repeated requests by both the House and Senate leadership to continue to accept entry of bicycle parts and other duty-suspended products without the payment of duty, while suspending the normal liquidation process, notwithstanding the expiration of the temporary tariff provisions. This action by Customs has had a severe effect upon the cash flow of U.S. bicycle manufacturers and their parts suppliers — again, at the most inopportune time possible.

While Customs has thus far chosen to continue suspending actual liquidation of entries of the merchandise in question and has not acted to collect deposits on entries made between the date of expiration of the duty suspension provisions and January 1, the possibility remains open that Customs may do so if legislation to renew TSUS items 912.05 and 912.10 and other expired duty suspension provisions is not acted upon expeditiously. These risks, plus the drain on U.S. bicycle manufacturers' and parts suppliers' cash flow, makes time of the essence. Accordingly, in the event House consideration of H.R. 3 is delayed (for any reason), BMA strongly urges the Subcommittee to introduce emergency legislation limited to the temporary renewal of the bicycle parts and other expired duty suspension provisions from their date of expiration through the end of 1987, with longer-term renewal of the provisions retained in the omnibus bill. We believe that

this course of action would remove the immediate threat facing the bicycle and other similarly situated domestic industries while giving these industries as strong an incentive as ever to support passage of omnibus trade legislation.

As the Subcommittee conducts its mark-up of H.R. 3, we hope it will review sections 850 and 869 of the bill in light of S. 584, substantially equivalent legislation introduced in the Senate by Senator Glenn. See 133 Cong. Rec. S. 2506 (Feb. 26, 1987). Senator Glenn's bill makes a number of important technical changes to the bicycle parts duty suspension renewal legislation. These include the correction of the new expiration date for the provision relating to foreign-trade zones (see section 850 of H.R. 3 at p. 441, lines 19-20) and a technical amendment to item 912.10 intended to clarify congressional intent regarding the eligibility for suspension of caliper brake wire, cable and casing. Senator Glenn's bill, like section 850 of H.R. 3 (as implemented by section 869 of H.R. 3) would make renewal of the duty suspension provisions retroactive to June 30 of last year. We have noticed, however, a number of typographical errors in section 869 of H.R. 3. In particular, no reference is made to section 850 in subsection (b)(2)(A) of section 869 (page 455, line 11), and the "applicable date" for purposes of that subsection is incorrectly stated (at page 456, line 11) as June 20, 1986, instead of June 30. In all other respects, sections 850 and 869 of H.R. 3 are correct and appropriate for passage as currently written.

We appreciate your attention to these comments. Once again, we wish to stress the critical importance of the bicycle part duty suspension provisions to the domestic bicycle industry. If any points of concern or controversy should arise on this measure — although we find it hard to believe that this could occur — we would be happy to work with you and the Subcommittee staff to resolve them so as to permit full House consideration of H.R. 3 at the earliest possible time.

Sincerely,

Michael R. Kershow

THOMAS F. SHANNON
MICHAEL R. KERSHOW

Attorneys for the Bicycle Manufacturers
Association of America, Inc.

MRK:kp

BRISTOL-MYERS
U.S. PHARMACEUTICAL AND NUTRITIONAL GROUP
EVANSVILLE, INDIANA 47721-0001 TELEPHONE (812) 429-5000

March 5, 1987

Mr. Joseph K. Dowley, Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

RE: Sec. 854, H.R. 3, Proposing the suspension of the duty on cross-linked polyvinylbenzyltrimethylammonium chloride (cholestyramine resin USP)

Dear Mr. Dowley:

We believe it is neither necessary nor desirable to continue to maintain a tariff on cholestyramine resin USP.

Bristol-Myers U.S. Pharmaceutical Group purchases cholestyramine resin for use in the manufacture of Questran®, a prescription pharmaceutical for the treatment of elevated blood cholesterol. Questran has been manufactured and marketed by our Company since 1967, and has an excellent patient record of efficacy and safety. Questran was the agent used in the 10 year study by the National Heart, Lung and Blood Institute (National Institutes of Health) which provided the first conclusive evidence that lowering blood cholesterol reduces the risk of heart disease. Questran is a very important cholesterol-lowering agent for thousands of patients throughout the U.S.

In the interests of our Company, and the patients who must purchase Questran for the treatment of their elevated blood cholesterol, we urge adoption of Sec. 854, H.R. 3 to suspend the tariff on cholestyramine resin USP.

Thank you for the opportunity to comment on this important issue.

Sincerely,

Scott D. Litherland
Manager, Public Affairs

(812) 429-7491

SDL:mjt

COMMENTS REGARDING

H.R.3

CONTINUATION OF HEARINGS ON

COMPRHENSIVE TRADE LEGISLATION

Cycle Parts and Accessories Association, Inc.
181 Salem Road
East Hills, N.Y. 11577
(516) 484-7194

Introduction

The Cycle Parts and Accessories Association (CPAA), a national trade organization whose membership comprises the leading U.S. manufacturers of bicycle components, desires to record its strongest support of H.R.3. Our particular interest is directed to Section 850 which will extend provisions, already in place for many years, covering the suspension of duty on specific bicycle parts not made in this country and the prohibition of bicycle parts from the foreign made zone program.

This association also endorses Section 821 with equal urgency. This provision will correct an anomaly which will prevent the evasion of proper duty payments on bicycle speedometers.

When the House Ways and Means Committee included these provisions in H.R.4800 last year, it did so in response to a large body of data supplied over many years by this association and individual manufacturers. In the subsequent period new import statistics compiled by the Commerce Department reinforce your Committee's decision to continue Sections 850 and 821 in H.R.3.

Permit us to briefly cite some critical background in support of these provisions.

History of Duty Suspension Bill

In 1970, Representative Fulton of Tennessee first proposed the duty suspension bill for bicycle parts. Public Law 91-689, commonly known as the "Fulton Bill", created two duty free categories in the tariff schedules, TSUS Items 912.05 and 912.10, which then encompassed nine parts: Generator lighting sets, derailleurs, caliper brakes, drum brakes, three speed hubs incorporating coaster brakes, three speed hubs incorporating coaster brakes, three speed hubs not incorporating coaster brakes, click twist grips, click stick levers and multiple free wheel sprockets. These duty free categories were extended for an additional three year period in 1974 by Public Law #93-490.

In 1977, legislation sponsored by Representative Dan Rostenkowski, Public Law 95-161, extended the duty suspension until June 30, 1980. That bill deleted derailleurs, due to the emergence of a domestic source of supply, and added coaster brakes, cotterless type crank sets, rims and certain frame tubing to the duty free categories. The legislation also provided duty free treatment for parts of the items appearing in TSUS 912.10.

Representative Rostenkowski again sponsored the extension of duty free treatment in 1980. That legislation, Public Law 96-467, deleted "rims" from the category and inserted "frame lugs" and "two speed hubs with internal gear changing mechanisms."

In 1983, the duty suspension bill was extended for an additional three year period. Once again, there were various adjustments in the list of components covered.

The current measure before this committee contains more bicycle components than ever before in the entire fifteen

year history of this legislation. Once again, derailleurs, a high ticket item, have been restored to the duty suspension list since this product is no longer manufactured in the U.S. Bicycle chains have also been added for the first time. All free wheel sprockets will now be duty free, not just multiple free wheel sprockets. Finally, parts of bicycles consisting of sets of steel tubing cut to exact length and each set having the number of tubes needed for the assembly (with other parts) into the frame and fork of one bicycle" has been deleted since there is now a domestic source of supply.

Although the addition and deletion of bicycle parts through the years may appear to be haphazard, that is hardly the case. The acid test has always been, as it should be now, whether or not there is a domestic source of supply for the product in question. If there is no domestic source of supply, levying a duty on the product does not confer any measure of protection to the U.S. parts industry and only adds to the cost for U.S. bicycle manufacturers.

There are thus two basic reasons for the duty suspension bill: To eliminate duties which do not serve any protective purpose and to improve the competitive posture of American bicycle manufacturers vis a vis the importers.

The Linkage With Foreign-Trade Zones

CPAA has always dealt reasonably and honorably with the bicycle manufacturers. Our members have repeatedly offered their support for the duty suspension bill, as we do now. In consideration for this support, CPAA received assurances that the duty on those remaining parts still produced in this country would not be tampered with. That was the understanding and both sides lived by it in industry peace and harmony for fifteen years.

However, this symbiotic relationship has been threatened by some bicycle manufacturers who can exploit the Foreign Trade Zone program to evade proper duty payments on their imported components. Section 850 closes this loophole.

Without this check on foreign trade subzones, the cost of imported bicycle components would immediately drop in two ways. First, it would drop because manufacturers could pay duty at the lower finished bicycle rate. The current duty rate on most bicycle components is 10%. The rate on a finished lightweight bicycle is only 5.5%. Thus, a bicycle manufacturer in a foreign trade subzone could import a pedal, assemble it on a lightweight bicycle, and then pay only a 5.5% duty on the value of that pedal. This then is the primary attraction of foreign trade zones and subzones today: The circumvention of our U.S. Customs laws.

Secondly, in a foreign trade zone or subzone the duty would only be paid when the bicycle is shipped. This deferral of duty would encourage bicycle manufacturers to hold larger inventories of imported components for longer periods of time and thereby cut into the last area where U.S. parts manufacturers have a slight competitive advantage over importers.

Foreign trade subzones will undermine the infrastructure of the bicycle industry. Many enlightened bicycle manufacturers recognize this. However, they hasten to add that if a single manufacturer were to get a subzone, the others would immediately follow suit under a domino type theory. In an industry where pennies often make the difference between a sale or no sale to a mass merchant account, no bicycle manufacturer could possibly survive without a foreign trade subzone if its competition had one.

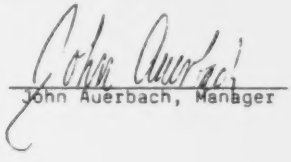
SUMMARY OF COMMENTS AND RECOMMENDATIONS

U.S. parts and bicycle producers are fighting for their survival as their market has been overwhelmed by imports. Less than one third the parts manufacturers in business 10 years ago are in operation today. Those companies still in business have been fighting for their survival against odds that grow longer with each passing day.

Those provisions of H.R.3 which will assist domestic industries to cope with unfair competition are highly desirable. But until U.S. trade laws are revised, we appeal for the continuation of the limited benefits provided by Section 850. We also urge approval of Section 821 to preserve the only domestic source of bicycle speedometers.

Section 850 has two objectives. First, it would continue in effect legislation having its origin in 1971 suspending the duty on bicycle parts no longer manufactured in the U.S. Second, it would continue in effect legislation enacted in the 98th congressional session which prevents U.S. bicycle manufacturers from using foreign trade zones and subzones as a device to cut tariffs on bicycle parts that are still made in this country, except in the limited circumstance where the finished product is exported. Thus, the first objective addresses the needs of the U.S. bicycle manufacturers while the second objective addresses the needs of the U.S. parts producers. H.R.3 represents a fair balancing of the interests of both industries.

Respectfully submitted,
CYCLE PARTS AND ACCESSORIES
ASSOCIATION, INC.

By 
John Auerbach, Manager

WRITTEN TESTIMONY SUBMITTED ON BEHALF OF

DIVERSIFIED PRODUCTS CORPORATION

IN OPPOSITION TO SECTION 821 OF H.R. 3

Submitted By: Richard L. Jenkins
Vice President
Finance, Administration
& International Business
205/745-1278

Dated: March 5, 1987

INTRODUCTION

Diversified Products Corporation, a subsidiary of GrandMet USA, is an American manufacturer of exercise and recreational equipment. Our facilities in Opelika, Alabama and Compton, California currently employ 941 people. This figure is down from 2,774 in 1984, due in large part to import competition. The exercise equipment field is a highly competitive and price conscious market. There are a large number of domestic exercise equipment manufacturers, as well as importers of exercise equipment with whom D.P. competes. D.P. has committed itself to be a domestic manufacturer of its products while others in our industry are relying increasingly more upon imported products. One of the important lines of products that D.P. produces domestically is exercise cycles.

I. PASSAGE OF H.R. 3 INCORPORATING SEC. 821 WOULD SERVE AS AN IMPETUS FOR INCREASED IMPORTATION OF COMPLETED EXERCISE EQUIPMENT AT THE EXPENSE OF DOMESTICALLY PRODUCED EXERCISE EQUIPMENT.

Based upon the high duty rate proposed by Sec. 821, it is clear that Sec. 821 is intended to protect the lone domestic manufacturer of bicycle-type speedometers, Stewart-Warner Corporation, by imposing a prohibitively high duty rate on imported bicycle-type speedometers. Because of the physical differences between bicycles and D.P.'s exercise cycles, D.P.'s exercise cycles require a specially designed speedometer known as a double gear hub drive speedometer. Double gear hub drive speedometers permit mounting on the left side of the exercise cycle wheel and have a clockwise speedometer read-out. Double gear drive speedometers are not bicycle speedometers, however, because of their physical similarities to bicycle speedometers they would probably be considered bicycle-type speedometers and, therefore, be subject to the high duty rate provided for in Sec. 821. This section hopes to protect one small segment of the domestic speedometer industry by imposing a 17% duty rate on imported bicycle-type speedometers, rather than maintain the present duty rate on bicycle speedometers only, and 0% on other speedometers such as those used on exercise cycles.[1] Although such an exorbiant increase in

---

1. The current tariff schedules provide for bicycle speedometers to be subject to classification under item 711.93, TSUS. Speedometers, other than bicycle speedometers, are classifiable under item 711.98 TSUS. The tariff provisions, in pertinent part, provides:

> Revolution counters, production counters, taximeters, odometers, pedometers, counters similar to the foregoing articles, specdometers and tachometers, all of the foregoing not provided for in subpart C of this part; parts of the foregoing:
>
> * * *
>
> 711.93 Bicycle speedometers and parts thereof.....
>
> A711.98 Other.....

The United States Court of Appeals for the Federal Circuit last year affirmed that only speedometers chiefly used on bicycles, not on exercise cycles, were classifiable as "bicycle speedometers" under item 711.93, TSUS. Stewart-Warner Corp. v. United States, 748 F 2d 663 (Fed. Cir. 1984). Section 821 of H.R. 3 would, in effect, overturn the appellate court's decision.

---

duties may arguably place Stewart-Warner in a more competitive position vis-a-vis imported bicycle-type speedometers, domestic exercise cycle manufacturers, such as D.P., would be clearly placed in a further disadvantageous position in relation to imported exercise cycles.

Currently, completed exercise cycles which are imported into the U.S. are classifiable under item 735.20, TSUS, and subject to a 4.64% rate of duty.[2] To compete with these low cost imports, domestic exercise cycle manufacturing companies such as D.P. find it necessary to source various exercise cycle components abroad.

Even by importing component parts it is impossible for domestic manufacturers to compete with imported exercise cycles on price alone. As an example, the imported exercise cycle pictured in Attachment A normally retails for $49.99 and can be found "on sale" for as low as $39.99. D.P.'s comparable exercise cycle is the DP 13-0125 (Attachment B) which we must price due to domestic manufacturing costs, in the mid-50 dollar range to the retailer. This translates to a retail price of about $70. Since one of the exercise cycle components sourced abroad by D.P. are double gear hub drive speedometers, the economic balance would shift even

---

2. Item 735.20, TSUS, provides in pertinent part:

> Puzzles; games, sport, gymnastic, athletic or playground equipment; all the foregoing and parts thereof, not specifically provided for.....

more markedly in the "domestic manufacture v. import" equation in favor of importing completed exercise cycles. Imported completed exercise cycles would carry a 4.64% duty rate under item 735.20, TSUS. In contrast, the importing of exercise cycle components, such as double gear hub drive speedometers, and maintaining U.S. production facilities would become less feasible with the passage of the bill, containing Sec. 821, since the duty rate on double gear hub drive speedometers would become prohibitively high.

Put succinctly, when it becomes less and less costly to import the whole article, rather than to import various components and manufacture the product in the U.S., D.P. would be compelled to rethink, and revise its current import and production program with a view towards dropping its domestic exercise cycle production line and simply importing finished exercise cycles. Ironically, the end result of this scenario industry-wide would be that the enactment of the higher tariff requested by Stewart-Warner would result in less sales of their exercise cycle speedometers since their market would no longer exist. Therefore, enactment of a high tariff on the speedometer component without taking prior similar steps to protect the exercise cycle end product which itself is being damaged by lower priced imports can only lead to the death of both markets.

An example of this very occurrence is illustrated by the stainless steel flatware industry. In weighing, and ultimately denying, the stainless steel flatware industry's request for import protection under 19 U.S.C. §2251, the International Trade Commission (ITC) issued a report in which it was noted that the domestic stainless steel flatware industry was hampered in competing with imports because the domestic raw material price for stainless steel was so much greater than that which the importers paid. As noted on page A-72 of the ITC's Staff Report on Investigation TA-201-49, Publication 1536, (June 1984):

> It is evident from the prices quoted on the invoices and from testimony of both domestic producers and importers, that the raw-material cost is an import disadvantage faced by low-end U.S. flatware manufacturers;...According to testimony of one domestic producer, "...if we were able to buy steel at that price, we would not be here today, because our production lines are automated to the point where if we are able to buy raw material at the same price as our competition, we would be able to compete with any manufacturer regardless of where they are located."

One reason for the higher U.S. stainless steel sheet prices was the import restraints imposed on imported stainless steel sheets. The result -- higher raw material costs for the domestic industry which, in turn, caused most domestic producers to become importers of the low end of the stainless steel flatware market. Id. at 15.

Stewart-Warner's market loss to imports is not unique to them alone. D.P. has seen its sales decrease significantly over the past two years due largely to the dramatic increase in imported physical fitness equipment. The entire domestic physical fitness industry is experiencing similar hardships with substantial layoffs being the result. In this regard, we are enclosing a copy of a news article (Attachment C) which appeared in the Wall Street Journal of August 6, 1985, announcing the closing of Huffy Corporation's Milwaukee, Wisconsin physical fitness product line, which included the domestic production of exercise cycles. Significantly, one of the reasons given by Huffy Corporation for closing its exercise equipment manufacturing facilities was the "sharp rise in low-priced imported equipment from Taiwan and other Far East producers." Other companies, such as D.P.'s major competitor Ajay (Attachment D) are reacting by increasing their importing activities. D.P., on the other hand, has made a commitment to produce its products in the U.S. The success or failure of this commitment hinges on the ability to obtain component parts at competitive prices. If H.R. 3 containing Sec. 821 is passed, it will only add to the domestic exercise equipment manufacturers' woes by eliminating Stewart-

Warner's competition and could force D.P. as well as other U.S. manufacturers to close their facilities as Huffy Corporation was constrained to do. Again, the result could very well be that Stewart-Warner's sales will not increase in spite of Sec. 821 of H.R. 3.

II. A SHARE OF THE BICYCLE-TYPE SPEEDOMETER MARKET SHOULD NOT BE LEGISLATIVELY MANDATED, ESPECIALLY WHERE THE BENEFICIARY OF SUCH LEGISLATION INITIALLY TURNED ITS BACK ON SAID MARKET.

As pointed out above, Sec. 821 of H.R. 3 has the effect of financially injuring companies, such as D.P., by its enormous duty increase for speedometers used on exercise equipment. Yet the lone beneficiary of Sec. 821, Stewart-Warner Corporation, could have avoided the need for such legislation had it not purposefully turned its back on producing double gear hub drive speedometers for which it is now seeking a 17.0% rate of duty.

Back in 1977, D.P. requested that Stewart-Warner produce a double gear hub drive speedometer for its exercise cycles, so as to permit a left side mounting on the exercise cycle's wheel with an accompanying clockwise speedometer read-out. In a letter dated December 14, 1977 (Attachment E), Mr. H. C. Stebbins, Jr., Sales Manager of Special Products for Stewart-Warner Corporation, advised D.P. that Stewart-Warner did not produce double gear hub drive speedometers. Instead, Stewart-Warner offered to supply D.P. with a single gear hub drive speedometer (the conventional bicycle speedometer). Stewart-Warner has asserted that "the major impetus to adopt the double-gear was the possibility of avoiding U.S. Customs duty applicable to 711.93."[3] In fact, history tells us that

---

3. Testimony by Stewart-Warner, "Written Comments on Certain Tariff and Trade Bills", Volume II, p. 70.

when exercise cycles were first designed and produced they were done so by bicycle manufacturers. In an effort to use common parts wherever possible the sprocket was placed on the right side of the exercise cycle so that a common chainguard could be used (exercise cycles drive reverse of bicycles). Therefore, since the sprocket was on the right the drive mechanism for the speedometer had to be placed on the left. As is often the case, subsequent manufacturers, such as D.P., continued with this basic design. Since the read-out of a conventional bicycle speedometer would have to be counterclockwise when placed on the left side of D.P.'s exercise cycle, D.P. chose not to use such speedometers. (On bicycles, as with other vehicles, the normal speedometer read-out is clockwise.) When the sole U.S. producer was unable and unwilling to supply D.P. with the type of speedometers D.P. desired for its exercise cycles, D.P. was constrained to look elsewhere for its needed specially designed speedometers. Consequently, D.P. sourced the double gear hub drive speedometers outside the U.S. That is how Stewart-Warner lost D.P. as a client. Now Stewart-Warner is seeking to capture the market it rejected some ten (10) years ago by what amounts to customs duty extortion.

Stewart-Warner should not be rewarded for turning its back on U.S. companies, such as D.P., particularly when the economic rewards Stewart-Warner is seeking to procure upon its behalf must necessarily be taken from the very company it refused to assist back in 1977. If Stewart-Warner truly wishes to capture a market share for bicycle-type speedometers, it should do so by means of traditional competitive business methods, and not by this flagrant end-run attempt to enact punishing high duty rates for bicycle-type speedometers.

III. THE PRESENT TARIFF STRUCTURE SATISFACTORILY FULFILLS ITS INTENDED DESIGN TO HAVE SPEEDOMETERS CHIEFLY USED ON BICYCLES SUBJECT TO A HIGHER RATE OF DUTY THAN OTHER SPEEDOMETERS.

From a purely historical perspective, there is no justification for changing the current tariff rate structure for speedometers. The current speedometer tariff provisions were enacted as part of the Tariff Schedules Technical Amendments Act of 1965. The basis for the 1965 change rested on the fact that Stewart-Warner believe that bicycle speedometers, which were subject to the higher speedometer duty of the 1963 enacted TSUS, were apparently evading the intended higher duty rate. The reason for this was because speedometers which were merely "suitable" for use on highway type vehicles were classifiable at a lower rate of duty. As a consequence, speedometers which were actually used on bicycles were being classified based upon their suitability of use on highway-type vehicles, rather than their actual use on bicycles. By means of the Tariff Schedules Technical Amendments Act of 1965, the TSUS was modified so that bicycle speedometers had a separate tariff-break-out, item 711.93, TSUS, with its accompanying higher duty rate, and all other speedometers fall within the ambit of 711.98, TSUS, with its lower speedometer duty rate.

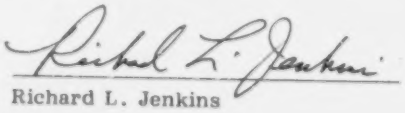
Having successfully closed what it perceived as a loophole in the tariff schedules, Stewart-Warner is not apparently intent on enlarging the embrace of the bicycle speedometer high duty rate. No longer satisfied to encompass only such speedometers that are chiefly used on bicycles, Stewart-Warner is now seeking to have all speedometers which resemble bicycle speedometers, regardless of how they are actually used, subject to the higher duty rate. In effect, the "suitability of use" test which Stewart-Warner so bitterly complained was undermining the classification of speedometers actually

used on bicycles, is being resurrected in a more odious form by Stewart-Warner via Sec. 821 of H.R. 3, but not for purposes of closing a tariff loophole, but rather for the purpose of ensnaring more and more speedometers chiefly used on bicycles. Thus, what had been designed in 1965 as a very precise closing of a classification loophole, would, under Sec. 821 of H.R. 3, be extended much further than its originally intended purpose and, in fact, would subsume many types of speedometers under the high bicycle speedometers duty rate even if such speedometers were never used or even capable of use on a bicycle, as long as they merely resembled a bicycle speedometer. Such an expansion of the bicycle speedometer high duty rate has no historical justification and should not be permitted.

CONCLUSION

Wherefore, extension of that current bicycle speedometer high duty rate of 17.0% to those types of speedometers not chiefly used on bicycles has no economic, equitable or historic justification, Sec. 821 of H.R. 3 should not be enacted into law.

Respectfully submitted,

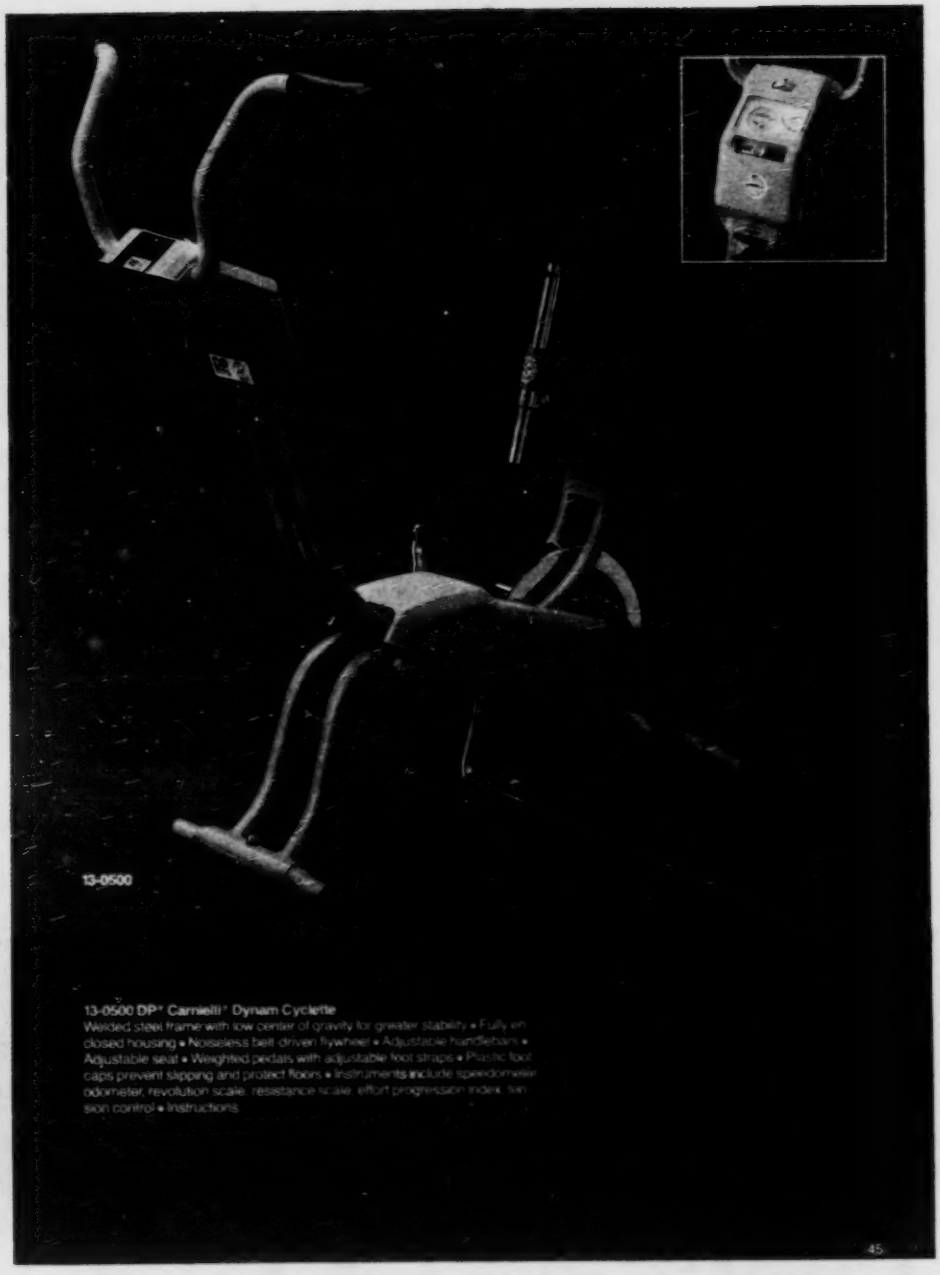


Richard L. Jenkins

Vice President
Finance, Administration
& International Business

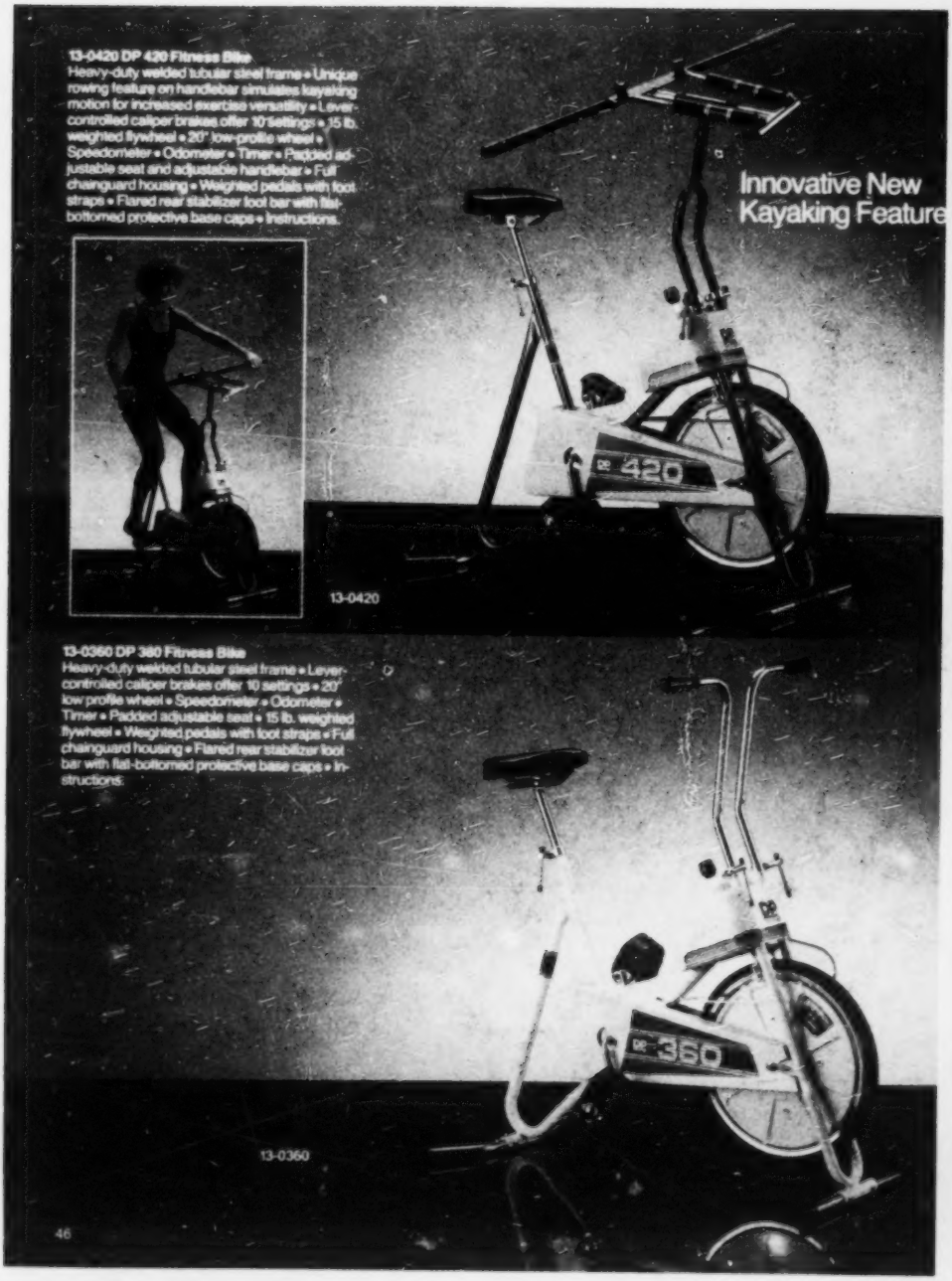
Diversified Products Corporation
309 Williamson Avenue
Opelika, Alabama 36803
Tel: 205/745-1278

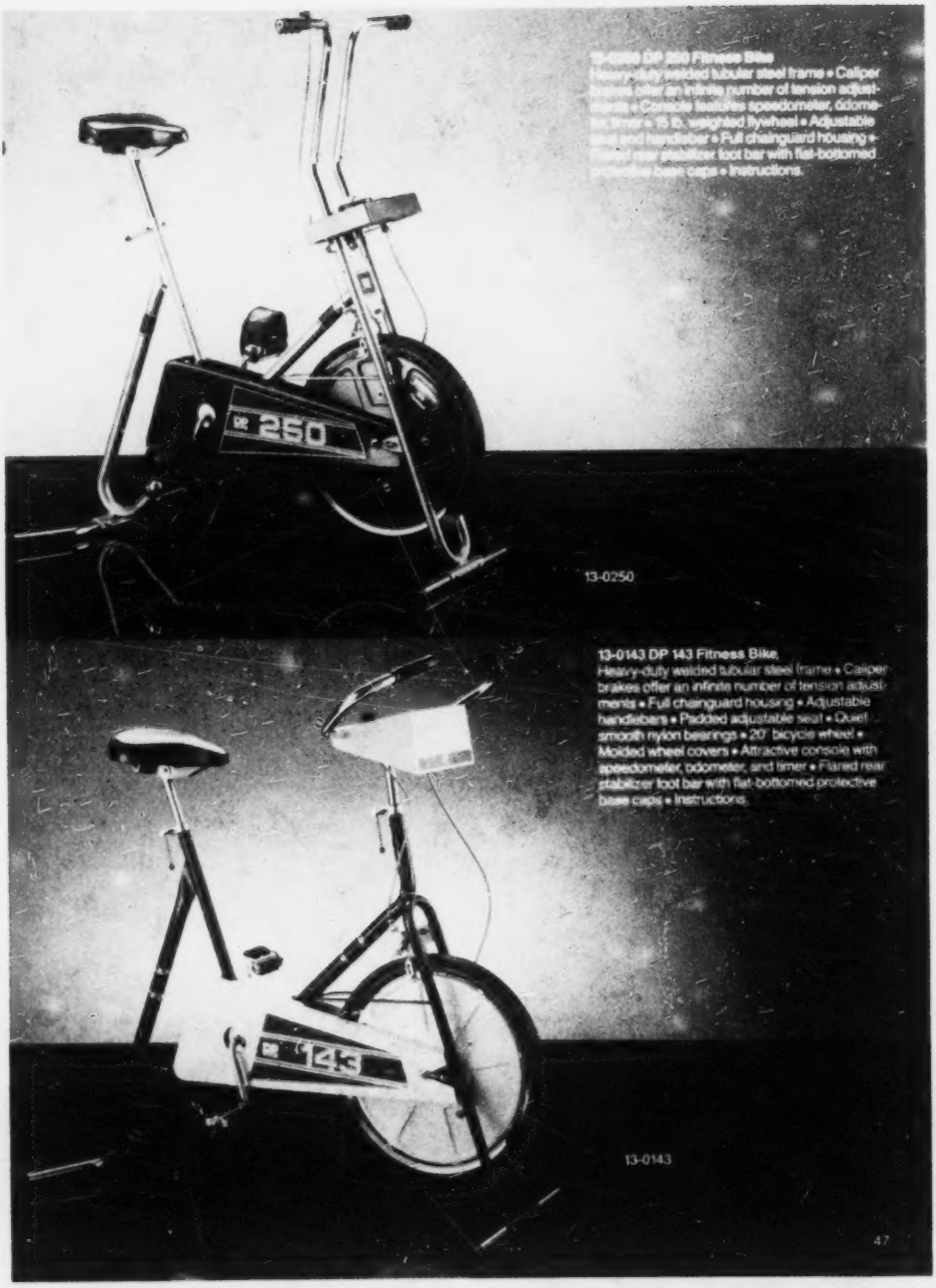
Attachment A



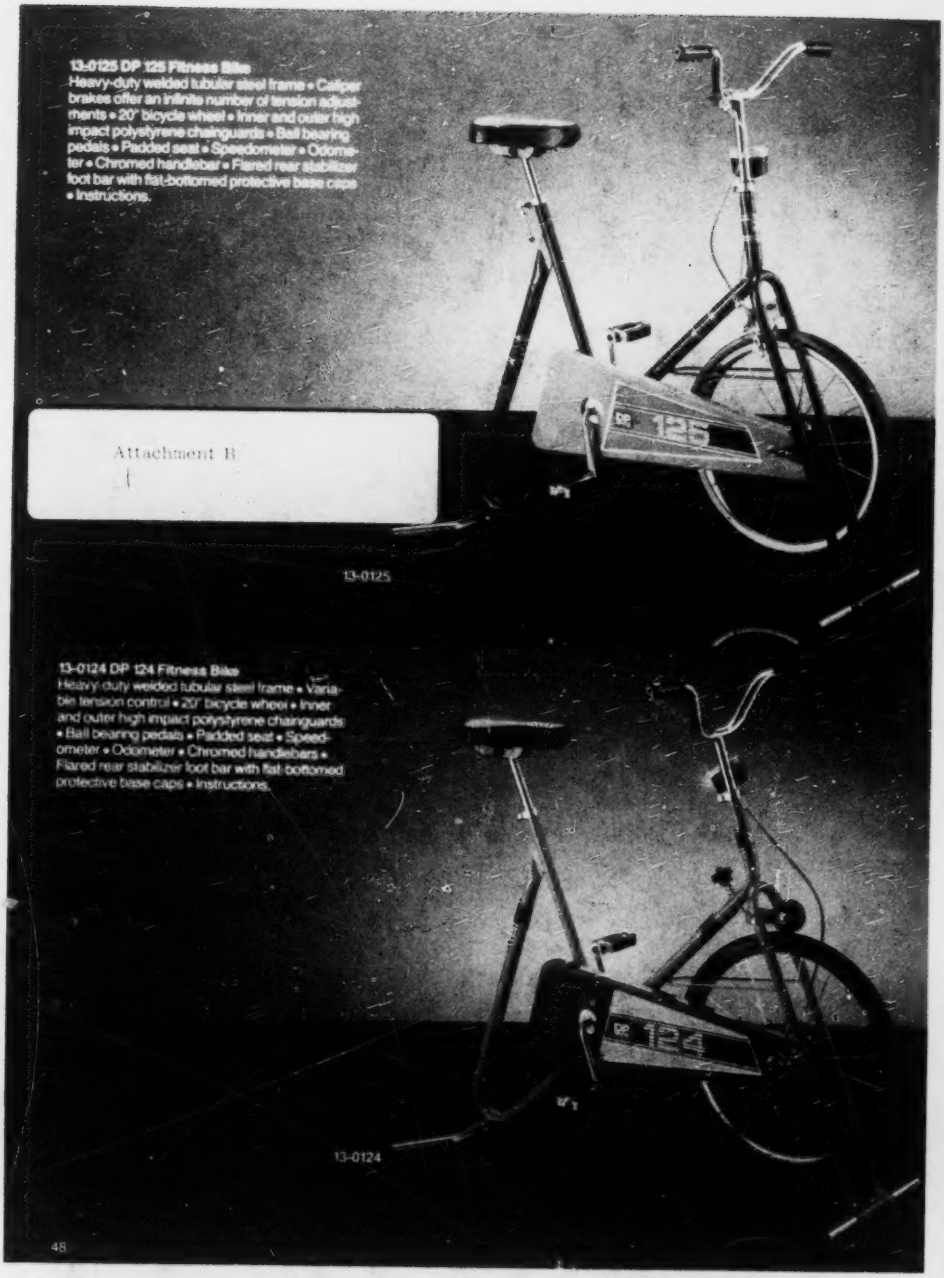
13-0500 DP* Carnielli* Dynam Cyclette
Welded steel frame with low center of gravity for greater stability • Fully enclosed housing • Noiseless belt driven flywheel • Adjustable handlebars • Adjustable seat • Weighted pedals with adjustable foot straps • Plastic foot caps prevent slipping and protect floors • Instruments include speedometer odometer, revolution scale, resistance scale, effort progression index, tension control • Instructions

45


13-0420 DP 420 Fitness Bike
Heavy-duty welded tubular steel frame • Unique rowing feature on handlebar simulates kayaking motion for increased exercise versatility • Lever-controlled caliper brakes offer 10 settings • 15 lb. weighted flywheel • 20" low-profile wheel • Speedometer • Odometer • Timer • Padded adjustable seat and adjustable handlebar • Full chainguard housing • Weighted pedals with foot straps • Flared rear stabilizer foot bar with flat-bottomed protective base caps • Instructions.
Innovative New Kayaking Feature
DP 420
13-0420
13-0360 DP 360 Fitness Bike
Heavy-duty welded tubular steel frame • Lever-controlled caliper brakes offer 10 settings • 20" low profile wheel • Speedometer • Odometer • Timer • Padded adjustable seat • 15 lb. weighted flywheel • Weighted pedals with foot straps • Full chainguard housing • Flared rear stabilizer foot bar with flat-bottomed protective base caps • Instructions.
DP 360
13-0360
46



13-0143 DP 143 Fitness Bike.
Heavy-duty welded tubular steel frame • Caliper brakes offer an infinite number of tension adjustments • Full chainguard housing • Adjustable handlebars • Padded adjustable seat • Quiet smooth nylon bearings • 20" bicycle wheel • Molded wheel covers • Attractive console with speedometer, odometer, and timer • Flared rear stabilizer foot bar with flat-bottomed protective base caps • Instructions.


13-0125 DP 125 Fitness Bike
Heavy-duty welded tubular steel frame • Caliper brakes offer an infinite number of tension adjustments • 20" bicycle wheel • Inner and outer high impact polystyrene chainguards • Ball bearing pedals • Padded seat • Speedometer • Odometer • Chromed handlebar • Flared rear stabilizer foot bar with flat-bottomed protective base caps • Instructions.
DP 125
13-0125
13-0124 DP 124 Fitness Bike
Heavy duty welded tubular steel frame • Variable tension control • 20" bicycle wheel • Inner and outer high impact polystyrene chainguards • Ball bearing pedals • Padded seat • Speedometer • Odometer • Chromed handlebars • Flared rear stabilizer foot bar with flat-bottomed protective base caps • Instructions.
DP 124
13-0124
48

Attachment B
1

Attachment C

Huffy Discontinues Fitness-Gear Business, Sees 3rd-Period Charge

By a WALL STREET JOURNAL Staff Reporter

DAYTON, Ohio—Huffy Corp. said it discontinued its physical-fitness product line and will take a $1.8 million to $2.2 million after-tax charge in the third quarter.

In addition to the charge, the company expects to incur losses from physical-fitness operations of between $500,000 and $700,000 after taxes in the second half as the products are phased out, officials said.

Huffy, a bicycle concern with interests in juvenile products and retail service businesses, also said the move would eliminate 100 jobs at a Milwaukee plant.

In the first half, Huffy's net income fell 56% to $2.7 million, or 50 cents a share, from a year earlier. Sales dropped 1.2% to $151.3 million.

Huffy's physical-fitness products included exercise bicycles, weight benches, rowing machines and other exercise equipment. The line hasn't been a profit contributor since Huffy entered the business five years ago, said Harry A. Shaw III, president and chief operating officer. During the first half, sales of fitness equipment fell 50% to about $5 million.

Mr. Shaw attributed the move to a drop in demand for fitness equipment, a cutback in inventory and sales space by retailers, and a sharp rise in low-priced imported equipment from Taiwan and other Far East producers.

Huffy will reduce employment at its Milwaukee sporting goods division to about 60 people from 160, Mr. Shaw said, and will move out of leased facilities there. The company will continue to make basketball goals, a profitable product, at a Huffy-owned plant in Milwaukee, he said.

Attachment D

ATLANTA CONSTITUTION MONDAY, FEBRUARY 23, 1987

Fuqua Industries a big hitter in international trade game

By Maria Saporta
Staff Writer

One of the major, but quieter, players on Atlanta's international business scene is Fuqua Industries Inc., a company that expects to import $46 million in sporting goods from the Far East in 1987.

Fuqua Industries also is an important Georgia exporter, though its subsidiaries' names are better-known.

Through its McDonough-based subsidiary, Snapper Power Equipment, it exports lawn mowers and garden equipment to 35 countries.

Fuqua has established a subsidiary, Fuqua World Trade Corp., to handle its importing activities of exercise equipment, camping gear, boots, rafts, baseball gloves and other sporting goods, which are sold under the trade names Ajay, Spalding and American Camper.

In 1986, Fuqua imported about $40 million worth of products from the Far East, which represents between 40 and 45 percent of its total sales of sporting goods.

Fuqua World Trade's main Far East office is in Taiwan, where it employs 16 people. But the subsidiary also has offices in Hong Kong, Korea and the People's Republic of China. It operates as a trading company for Fuqua's other subsidiaries in Asia.

"Our principal involvement in the international area is as an importer," Lawrence P. Klamon Fuqua president and chief executive officer, said at a meeting of the Georgia International Trade Association. "We don't own any factories. We don't have any joint ventures. We are only a buyer. By having no fixed investment, we can move as economies change and currencies change.

"Ten years ago, we used to buy a lot of sporting goods from Japan. But as the labor costs began to increase in Japan, we shifted to Taiwan. Now we are moving some of our purchasing from Taiwan to Korea and (China)," he added.

Klamon said that in the foreseeable future, he sees Korea as Fuqua's next major center of operations in the Far East. Eventually, the People's Republic of China could become more important as it develops, he added.

"We have been in the People's Republic of China for eight years. We believe the PRC offers great potential, if you have the patience," he said.

Fuqua had to test that patience when it decided to find a company to manufacture fishing waders in China. It had to convince a company that made rubber boots to make the rubber waders.

After three months, the first waders came pack with the feet pointing in wrong directions. The next batch came in three months later with the wrong kind of finish. And the next, another three months later, weren't the color that was ordered. Finally, after a year, the waders arrived as ordered. They netted $400,000 in sales.

When it comes to exporting, Fuqua's activities are limited to developed countries where there is a middle-class environment, a stable economy and a market for Snapper lawn mowers and garden equipment.

"With the dollar dropping, we anticipate $10 million in exports in 1987," Klamon said.

Attachment E

STEWART-WARNER CORPORATION
ALEMITE AND INSTRUMENT DIVISION
1826 DIVERSEY PARKWAY · CHICAGO, ILLINOIS 60614 · 312/883-7461

HERBERT C. STEBBINS JR.
SALES MANAGER
SPECIAL PRODUCTS

December 14, 1977

Mr. James Wilborn
DIVERSIFIED PRODUCTS CORPORATION
P.O. Box 100
309 Williamson Avenue
Opelika, Alabama 36801

Dear Jim:

Attached please find our quotation for our standard exerciser bicycle speedometer set-up....the same that you bought from us a year or two ago. Please note that these are 1978 prices and we hope, at this point, firm for twelve months.

I want to point out that this set-up includes a single gear axle drive with a counter-clockwise head. I believe that you are currently using a double gear axle drive which reverses the cable direction and permits the use of a clockwise reading speedometer head.

At this point in time, we do not have the dual gear drive, however, we are considering tooling this unit.

I am enclosing a copy of our current catalog showing the various models of bicycle speedometers that we currently manufacture for general distribution. Any of these components could be considered for use on an exerciser bike, for example, the head featuring the reset odometer, the tire drive unit in place of the axle drive, etc. Some of the exerciser people are using the reset odometer as a "Deluxe" feature.

I want to visit with you people in Opelika one of these days, and will be in touch with you after the holidays to set up an appointment. In the meantime, should you have any questions, please do not hesitate to call.

Cordially,

STEWART-WARNER CORPORATION

H. C. Stebbins, Jr.

dn

Encl.

EDISON ELECTRIC INSTITUTE
COMMENTS ON H.R. 3, TITLE VIII,
SECTION 817 TO HOUSE COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON TRADE

The Edison Electric Institute (EEI) is the national association of investor-owned electric companies. Its members serve approximately 73 percent of all ultimate electricity customers in the nation. They operate ninety-five nuclear plants and currently have nine additional units under construction.

Electric utilities in the United States operate their systems with the primary goal of delivering electricity at the lowest practical cost on a dependable basis. While system reliability is of paramount importance, the cost of all new facilities, equipment, services, and fuels are under constant review to secure the lowest practical costs in serving the electricity customers most economically.

U.S. electric utilities believe in the principle of free international trade and do not like trade barriers in any form. Unrestricted international trade is desired to permit utilities to purchase fossil fuels and uranium from foreign nations on a competitive price basis. Uranium conversion and enrichment services also are purchased on a competitive basis from foreign as well as domestic suppliers. The foreign purchases are principally a result of lower prices offered by foreign suppliers, and are thus advantageous to the nation's electric consumers.

Section 817 H.R. 3 would impose a $3 per pound tariff on uranium hexafluoride "[i]f imported for use in reactors in the United States and a product of a country that requires that uranium mined in that country be converted or upgraded into uranium hexafluoride (UF_6) before export." A typical 1000 megawatt reactor uses approximately 495,000 pounds of uranium hexafluoride each year. The resulting additional annual cost, which would ultimately be borne by the electric ratepayers, for one 1000 megawatt reactor could thus be very close to $1,500,000.

Electric utilities desire to purchase uranium conversion services on a competitive basis from any source in the world, independent of the origin of the uranium. Factors considered in addition to price are reliability and logistics of the supply arrangements. Efforts to couple conversion services with uranium procurement should be discouraged, however, using a tariff to do so unfairly penalizes the nation's electric utilities and ultimately the electric ratepayers.

If a country's uranium conversion policy is determined to be a violation of the General Agreement on Tariffs and Trade (GATT), negotiations between the United States and that country should be the method for solving the problem. Imposing a tariff on imports is not an appropriate solution and might constitute a violation of GATT by the United States.

EEI encourages you to consider the resulting cost to the nation's electric ratepayers of imposing a tariff on imported uranium hexafluoride and to ensure that Section 817 is removed from H.R. 3. Additionally, we urge you not to allow a provision for any tariff on nuclear fuel, conversion services, or enrichment services in any trade/tariff bill which may be passed.

If Congress ultimately concludes that despite the above reasonings, such a tariff should be imposed, provisions should be included to grandfather contracts in existence before imposition of such a tariff.

COMMENTS OF NEW YORK POWER AUTHORITY
ON A MISCELLANEOUS TARIFF PROVISION CONTAINED IN H.R. 3

The New York Power Authority opposes the miscellaneous tariff provision contained in Section 817 of the "Trade and International Economic Policy Reform Act of 1987" (H.R. 3) which would impose a $3 per pound import tariff on uranium hexafluoride (UF_6) imported for use in reactors in the United States from any country requiring that the uranium be converted to UF_6 prior to export.

UF_6, which is an intermediate product, is the basic feedstock for the enrichment of nuclear fuel. UF_6 is currently supplied by five companies worldwide who have the ability to convert it from its natural state to uranium hexafluoride. Two of the five companies are American (Allied-Signal and Kerr-McGee); the remaining three companies are Canadian, British and French.

There is no market justification for the imposition of an import tariff to protect the U.S. converters. The U.S. converters currently supply 80% of the U.S. market and 40% of the world market and will continue to do so into the 1990's.

The Canadian government presently requires uranium to be converted to UF_6 before it can be exported. This Canadian policy, which is used to justify the proposed tariff, is the subject of ongoing discussions between the United States and Canada. Since the United States has imposed effective quotas on all uranium imports for the past seventeen years, it would appear that neither government is "blameless" in this instance and that the issues should be resolved through the negotiation process rather than through legislation which penalizes United States utilities and their customers.

The New York Power Authority is a non-profit public power producer whose mission is to provide low cost energy for the benefit of the people of New York State. The Power Authority owns and operates two nuclear power plants which generated a total of 11.5 billion kwh in 1986. Much of this power is sold to governmental customers such as the Metropolitan Transportation Authority (MTA), the City of New York for lighting municipal buildings and streets, public housing authorities and municipal electric systems, as well as industries which have made a commitment to create new jobs and other utilities which pass the power along to their customers without profit. The proposed $3.00 per pound fee on uranium hexafluoride imports could potentially add millions to the costs borne by these customers for the 1990-1996 period, since any increased operating costs will be borne by the ratepayer. This is particularly unfair to the Power Authority's customers, since electric consumers in New York State already pay the highest rates in the nation.

The Power Authority urges the members of the House Ways and Means Committee to oppose the inclusion of the uranium hexafluoride import tariff in the trade legislation presently under consideration by the Committee.

NORTHEAST UTILITIES

COMMENTS ON H.R. 3, SECTION 817

TO

HOUSE OF REPRESENTATIVES COMMITTEE ON WAYS AND MEANS

Northeast Utilities (NU) is an investor owned utility which supplys most of the State of Connecticut and Western Massachusetts with electricity. NU generates approximately 70% of its electricity from its four operating nuclear units and its partial ownership of other New England nuclear units.

It is a goal of Northeast Utilities to supply its customers with the lowest cost electricity achievable. To assist in meeting this goal, it is NU's policy to purchase the lowest cost fuels available. For nuclear fuels in particular, the world market presents us with opportunities to purchase nuclear fuel at the lowest possible costs. Northeast Utilities, therefore, is interested in preserving the principles of free international trade which have become the driving force behind favorable pricing in the nuclear fuel markets.

Section 817 of H.R. 3 which is clearly aimed at Canadian fuel sources, would impose a $3 per pound tariff on uranium hexaflouride "if imported for use in reactors in the United States and a product of a country that requires that uranium mined in that country be converted or upgraded into uranium hexaflouride (UF6) before export". The effect of this tariff on Northeast Utilities is clear. NU has in place contracts with both a Canadian uranium producer and a Canadian converter. Because no language concerning grandfathering of existing contracts is contained in the bill, our deliveries of Canadian uranium hexaflouride would be subject to tariff costs of up to approximately $2.1 Million per year. Both of these contracts were placed with Canadian companies after a worldwide search for the most attractive terms and conditions, yet our customers would be penalized not by imprudent fuel purchasing techniques, but by a restriction of free trade subsequent to our evaluations and contract awards.

The U.S. conversion industry, which seeks to benefit from this legislation, already supplies 80 percent of the U.S. conversion market and 40 percent of the world market. It is NU's position that there is no need for restrictions in this market especially since the U.S. market is dominated by only two companies, namely Allied Chemical and Sequoyah Fuels. The worldwide supply of conversion services is available from five companies in total. This is a small number of suppliers for an important link in the nuclear fuel cycle. Three of these are located in North America, the other two in Europe. The two domestic suppliers, Allied Chemical and Sequoyah Fuels, have experienced problems in their facilities which have recently provoked fines from the NRC and in the case of Sequoyah Fuels a mandatory shutdown of their facility which lasted approximately ten months. Trade restrictions on the only other North American supplier would be burdensome not only financially, but also from a security of supply standpoint. NU believes that U.S.-Canadian negotiations offer the best prospects for resolving this trade issue. We therefore urge you to oppose the inclusion of a tariff on uranium hexaflouride in the House of Representatives Bill H.R.3.

Congressman Carl C. Perkins
Statement in Support of Section 850 of H.R. 3

I am filing these written comments with the Subcommittee today in support of section 850 of H.R. 3. Subsection (b) of H.R. 3 was originally enacted as P.L. 98-573, which expired pursuant to its terms on June 30, 1986.

This provision was originally introduced by my father, Carl D. Perkins, and I have introduced a separate bill, H.R. 583, seeking its continuation. The very facts which caused a need for this provision originally to be enacted remain true today. Those facts are as follows.

The bicycle component parts industry in the United States has been fighting a long, hard battle against aggressive foreign competition in the domestic market. At the present time, virtually all bicycle component parts of types not currently manufactured in the United States can be imported duty free. That is, roughly 50% of the component parts of a finished bicycle enter this country with no duty at all. Only certain parts which compete directly with domestically manufactured parts are dutiable.

This situation, of course, is well known to the members of this Subcommittee. Duty suspension legislation has been enacted several times in the past decade, carefully balancing the needs of the domestic bicycle industry, the components parts industry and the national interest of the United States in dealing with our international trading partners. It is because of this duty suspension that both subsections (a) (bicycle parts duty suspension continuation) and (b) (continuation of customs treatment of bicycle parts in foreign trade zones) of section 850 of H.R. 3 are set to expire on the same date, just as the existing foreign trade zones treatment was originally tied to the then-existing sunset date for bicycle parts duty suspension.

It is vital that both subsections (a) and (b) of section 850 of H.R. 3 be enacted. By continuing both provisions, we can extend the current balance in the Tariff Schedules by continuing duty suspension on bicycle component parts which are not currently manufactured in the United States while preventing the use of foreign trade zones, an administrative device, to avoid duties on those imported bicycle parts which are available from domestic manufacturers.

It is clear that the differences in the tariffs on completed bicycles (currently 5.5 percent for most bicycles) versus the current 10 percent on most imported component parts have been carefully balanced by the suspension of duty on roughly 50 percent by dollar volume of component parts. To allow an administrative body, the Foreign Trade Zones Board, to undercut this intentional balancing of the two tariff rates would be to cause great damage not only to the bicycle parts manufacturers but also to the employees of the bicycle parts manufacturers and the employees of bicycle manufacturers, the latter of whom could expect to see their jobs changed from high skill manufacturing operations to low skill assembly operations.

Additionally, grant of foreign trade subzone status to any major bicycle manufacturer would virtually destroy the domestic bicycle component parts industry because every dollar saved by a domestic bicycle manufacturer would be through sourcing abroad a part which would have been purchased domestically, were there not a tariff incentive to purchase it abroad.

The ill effects do not stop with these companies and their employees. The bicycle component parts industry, unlike the completed bicycle industry, buys a vast majority of its parts and raw materials from U.S. suppliers. The decline of the bicycle component parts industry will have ripple effects far beyond these companies and their employees.

I know personally of the valuable contribution bicycle parts manufacturers have made. Wald Manufacturing Company, a bicycle component parts manufacturer, has been doing business in Maysville, Kentucky, which is in my Congressional district, since 1924. For over half a century, Wald has been a firm community anchor, providing stable employment and responsible community support. It will be a bitter loss if Wald Manufacturing Company is forced to close its door. I have no doubt that the stories are similar for other such companies throughout the country.

This legislation is narrowly drafted to cover only this particular industry and not to interfere with any actions taken or planned in other industries. There can be no doubt that each industry is unique and is subject to a vast number of differing conditions domestically and abroad. This legislation is drafted to meet the conditions existing in the bicycle component parts industry as those conditions are reflected in the current tariff balance which Congress has previously struck.

The proposition that Congress may not or should not act to maintain the integrity of a legislative scheme as carefully crafted as the United States trade laws and Tariff Schedules is preposterous. That circumvention of Congressional intent and policy is by the back door route of foreign trade subzone status in no way diminishes the authority or the duty of the Congress to make necessary legislative adjustments to serve the best interests of the citizens of the United States.

While the Administration has in the past opposed the foreign trade subzone provision found at subsection (b) of section 850 of H.R. 3 because they feel it is not the province of the legislative branch to intervene in what is an administrative process, I say it is unthinkable that the Congress, the elected representatives of the citizens of the United States, may only stand by blindly while an entire domestic industry is ground up in the machinery of the bureaucracy. That bureaucracy assumes that the Tariff Schedules of the United States, by being inverted as to particular bicycle component parts and bicycles, is an inadvertent situation which should be "corrected" through the foreign trade zone device. This Subcommittee certainly knows better, as shown by prior enactment of this very provision.

I would also like to alert the Subcommittee to a technical amendment which I believe should be made. As I stated earlier, it has always been Congress' intent to tie expiration of the foreign trade subzone provision, subsection (b) of section 850 of H.R. 3, to expiration of the duty suspension for designated bicycle parts, subsection (2) of section 850 of H.R. 3. However, because of a language difference in the two underlying laws, section 850 as currently written could allow the foreign trade zone provision to lapse on December 31, 1990, while the bicycle parts duty suspension portion remains in effect through December 31, 1990 (i.e. until January 1, 1991). Thus, lines 15 through 20 at page 441 of H.R. 3 (section 850) should be revised as follows:

> (b) EXCEPTION TO CUSTOMS EXEMPTION APPLICABLE TO FOREIGN TRADE ZONES. - Section 3(b) of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c(b), is amended by striking out "June 30, 1986" and inserting in lieu thereof "January 1, 1991".

STATEMENT OF RECORDINGS IMPORT TRADE COMMITTEE

The Recordings Import Trade Committee (RITC)(with membership consisting of JEM Records, Tower Records, Dutch East India Trading, and Import-O-Disc) strongly supports the passage of a bill to implement the Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials. In the 99th Congress, RITC filed statements to that effect with the House Trade Subcommittee on August 30, 1985, and the Subcommittee on International Trade of the Senate Finance Committee on April 21, 1986. H.R. 3 in this session includes the same language (Sections 871-875). This statement is submitted in support of these provisions of H.R. 3, and we request that it be filed as a part of the record.

The purpose of the Florence Agreement, which entered into force for the United States on November 2, 1966, is to facilitate the international flow of cultural materials (including books, publications, documents, works of art, collector's pieces, visual and auditory materials, scientific instruments and apparatus, and articles for the blind) through the extension of duty-free treatment. The purpose of the Nairobi Protocol is to broaden the list of products eligible for such treatment, including articles for the use of the blind and other handicapped persons.

The President, on January 16, 1981, submitted the Nairobi Protocol to the Senate for its advice and consent. On January 12, 1983, the Educational, Scientific and Cultural Materials Importation Act of 1982 ("the 1982 Act") (Publ. L. 97-446; 96 Stat. 2346) was enacted directing (in section 167(b)(1)) the President to proclaim temporary duty-free treatment for certain imported articles which would be covered by the Nairobi Protocol and authorizing the proclamation of duty-free treatment for other such items, if the President found it to be in the interest of the United States. The President found it to be in the interest of the United States and issued a Proclamation (#5021 of February 14, 1983) which instituted said duty-free treatment until August 11, 1985. Since that date liquidations have been suspended in view of the pendency of legislation which was expected to and would have had retroactive application. Due to a change in U.S. Customs Service policy since January 1, 1987, while this suspension of liquidation continues, the duties have been posted as required by new U.S. Customs Service policy.

These sections of H.R. 3 were introduced in this Congress to authorize the President to deposit an instrument of ratification for the Nairobi Protocol, including Annex C-2, and, if he finds it in the interest of the United States, to extend duty-free treatment to Annex C-1 items, subject to certain conditions.

H.R. 3 would provide for the ratification of the Nairobi Protocol, which the United States signed in 1979, and for which the advice and consent of the Senate was received in October 1982. The Department of Commerce stated last year to the Committee "it is the view of the Administration that ratification of the Protocol is in the national interest" (page 1, fourth paragraph). This was reaffirmed by Mr. Louis J. Murphy, Acting Director, Office of Industry Assessment of the Department of Commerce on February 10, 1986, before the House Trade Subcommittee. This is still the Administration's position.

The overwhelming weight of the comments received last year was that the legislation should be passed to enable ratification to take place. One industry which raised concern, hearing aids, is availing itself of administrative remedies and did not oppose ratification. We note the statement of the Scientific Apparatus Makers Association before this Subcommittee on April 8, 1986, regarding export of scientific instruments under the Florence Agreement. The question raised there related to current operation of the Florence Agreement rather than to the Nairobi Protocol. We have no position on the issue except to note that Title III, Sec. 301(a)(1) and (2) of S. 1274 (legislation from the last Congress) would appear to have provided an administrative remedy for the problem.

As noted in the submissions last year by the Association of Research Libraries, the American Library Association, and the Department of Commerce, the legislation provides both a mechanism and ample opportunity to redress for any industry adversely affected by the passage of this legislation and any resulting implementation of duty-free treatment.

It should be noted that further delays in action on the Nairobi Protocol would be unfortunate. It is suggested that the language should be included in the first trade bill to pass this Congress. Entries of articles which could be covered by the legislation, if enacted, have had their liquidation temporarily suspended. Without knowledge of what duty rate will apply, pricing in these markets is uncertain, at best, and therefore discouraging trade.

The purpose of both the Florence Agreement and the Nairobi Protocol is to aid the unfettered dissemination of the materials covered. Quick passage of this legislation would demonstrate our national commitment and send a message to other signatories of the Protocol, particularly the European Communities ("EC") member states, that implementation should take place quickly.

Timing is important because the EC has definite procedural rules under which the next opportunity for tariff reductions in the EC is July 1, 1987, and the next thereafter, January 1, 1988; a six-week lead time period is necessary before the effective date to accomplish administrative matters by the EC. EC member states would be expected to institute their tariff changes by July 1, 1987, if H.R. 3 becomes law by May 8, 1987. Thus, passage of this measure would not only bring more timely benefits to our handicapped and other consumers, but also would signal the EC to act so that there would be reciprocal duty suspensions in place in the countries which form the majority of the market for the industries which support this measure as reciprocal.

Respectfully submitted,

Robert Taft, Jr.
Taft, Stettinius & Hollister
Counsel for the Recordings
Import Trade Committee

COMMENTS
OF
RHONE-POULENC INC.
TO SECTION 818 OF H.R. 3
CERTAIN TARIFF AND TRADE BILLS
AND IN PARTICULAR AS IT RELATES
TO SILICONE RESINS AND MATERIALS

PRELIMINARY STATEMENT

These written comments are submitted pursuant to request of The Honorable Sam M. Gibbons, Chairman of the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives, for written testimony for the record on certain Tariff and Trade Bills, in particular to Section 818 of H.R. 3 relating to silicone resins and materials.

I. INTRODUCTION AND BACKGROUND

Section 818 of H.R.3 has been introduced in the United States House of Representatives by Mr. Gephardt and referred to the Subcommittee on Trade of the Committee of Ways and Means, as well as to the Committee on Agriculture, Banking, Finance, and Urban Affairs, Education and Labor, Energy and Commerce, and Foreign Affairs.

Section 818 of H.R.3 (hereinafter referred to as "Section 818") is designed to amend the Tariff Schedules of the United States ("TSUS") to classify silicone in all its forms under a single TSUS item and to impose a single rate of duty on such silicones. At present, silicones are classified under separate TSUS items based on the distinct physical characteristics and end uses of each particular silicone product. The distinct forms of silicone, therefore, being subject to varying rates of duty. Currently, these rates vary from 0.0 percent ad valorem to $.01 per pound plus 7.7 percent ad valorem. Section 818 would reclassify the distinct forms of silicone under one TSUS item and subject the so-classified silicones to a duty rate of 3.7 percent ad valorem.

Rhone-Poulenc Inc. ("RP") is a U.S. corporation with corporate offices in New York, New York and with principal business offices at P.O. Box 125, Black Horse Lane, Manmouth Junction, New Jersey.

RP imports many silicone and other products which, in addition to products manufactured in the U.S., are distributed on a national basis. RP employs 3,750 individuals and has manufacturing facilities in Georgia, Missouri, New Jersey, Oregon, Pennsylvania, Tennessee, Texas, Washington and West Virginia. RP is expanding its silicone facility in Lakewood Township which utilizes the imported silicone and will be affected by proposed increase in duty.

II. SUMMARY OF POSITION

RP opposes the reclassification of silicone products that would be accomplished by Section 818 on several grounds.

A reclassification and new single rate of duty would result in a substantial increase in the duties imposed on a large number of silicone products which are imported into the United States. While the proposed revisions would decrease the duty rates for some products, the end result would be a substantial net increase in U.S. customs duties and increased costs for U.S. companies utilizing these silicone products. This unilateral increase in duty rates would harm U.S. companies using such imports in U.S. manufacturing activities.

This unilaterial increase would be in violation of U.S. obligations entered into during the Tokyo-round of the Multilateral Trade Negotiations ("MTN") under the General

Agreement on Tariffs and Trade ("GATT"). At the MTN, U.S. trading partners negotiated in good faith for specific rates of U.S. customs duties for the various silicone products, and the United States agreed to be bound to those negotiated rates under the GATT. Enactment of the proposed revision would violate the GATT as it would unilaterally increase bound rates. When bound rates are increased by the United States, the GATT provides that U.S. trading partners are entitled to compensation or to retaliate against U.S. products. Therefore, some industry or industries in the United States would have to pay for the increase that would result from enactment of Section 818.

Further, the decrease of duties on some silicone products as a result of enactment of Section 818 would not relieve the threat of retaliation, nor would it be good policy. A decrease of duties on one product does not justify an increase in duties on another product. The United States is not entitled to choose for its trading partners the manner of compensation for violation of U.S. obligations. Unilateral compensation is not provided for in the GATT and indeed such a provision would be imprudent. If the GATT permitted countries to undertake unilateral compensating changes to duty rates, a country could increase the duty rate on products subject to competition and decrease the duty rate on products which were not subject to competition, effectively increasing the level of protection. Such action would be contrary to the principles of the GATT. The United States should be cautious, as by enacting Section 818 and sanctioning a concept of unilateral compensation, the United States could well be facing analogous actions from its trading partners in the future, based upon the U.S. precedent.

Thirdly, enactment of the proposed revisions would result in a classification scheme which is contrary to the Administration's October 1986 draft conversion of the TSUS to the Harmonized System ("HS") format. The HS format classifies various silicones under one heading with three subheadings, each subject to a different rate of duty. Significantly, this was done pursuant to a Presidential directive ordering that the conversion not alter the present rates of duty applicable to products to the extent possible. Furthermore, the reclassification would ignore the significant chemical and physical differences in the various forms of silicone in both appearance and application, and would needlessly abolish the practice of separately classifying the distinct forms of silicone. Section 818 is in conflict with HS format which the Congress is now reviewing. (See Notice #1 of Subcomittee on Trade.)

Finally, when considering any reclassification, it is important to be aware of the reasons for implementing such a change. The changes embodied in Section 818 are supported by several U.S. chemical producers which control a major share (estimated 70 percent) of U.S. market for the silicone products in issue. These chemical giants would have Congress believe that they support the reclassification out of their heartfelt desire to simplify the TSUS or that it is "trade neutral." Why is it that some domestic producers of silicone products are so concerned with the way these products are classified for importation purposes? We suggest that the domestic producers' concern stems from their belief that enactment of the reclassification would give them a stronger competitive advantage over U.S. importers of the chemicals and those American companies who use such chemicals. Giving a stronger competitive advantage to companies which already have a major share of the U.S. market by taking an action violative of U.S. international obligations is inappropriate, particularly when other U.S. companies which

export to the European Community would be faced with duty increases created by lawful retaliation by our trading partners.

We are confident that members of Congress wish to confront this problem realistically and rationally. We submit to the Members of the Subcommittee that there is no justification, and no rationalization for unilaterally increasing the rate of duty on silicone products.

III. DISCUSSION

A. Section 818 Would Substantially Increase The Duty Rate On A Significant Number Of Silicone Products Imported Into the United States

Section 818, if enacted, would amend the TSUS by changing the classification of certain siiicone rubbers and materials and imposing a uniform rate of duty on them. At present, various forms of silicone are classified separately under different TSUS items. Among them are 429.9530 (organo-silicone compounds), 446.1576 and 446.1580 (synthetic silicone rubber), 445.5660 (silicone resins), 474.62 (putty and caulking), and 494.6040 (cement, NSPF). Section 818 would classify all of the above silicones under one new TSUS item - 445.55.

One change mandated by Section 818 is the reclassification of certain materials which are now classified as synthetic rubbers. Synthetic rubbers are classified in Schedule 4, Part 4 of the TSUS, in item 446.15, which now reads in relevant part as follows:

TSUS No.	Statistical Suffix	Product Description	Most Favored Nation (Column 1) Rate of Duty
446.15		Synthetic rubber.....	0.4 ad val.
		Not containing fillers, pigments or rubber-processing chemicals:	
	33	Silicone.....Lb.	
		Other:	
		Masterbatches:	
	71	Containing carbon black.Lb.	
	76	Other masterbatches.....Lb.	
	80	Silicone.....Lb.	

If enacted, Section 818 would move those products designated by statistical suffixes-33,-71,-76, and-80 to new TSUS item 445.55 which effective January 1, 1987, would read as follows:

TSUS No.	Product Description	
445.55	Silicone resins and materials	3.7% ad valorem

The duty increase of the magnitude set forth which would result from enactment of Section 818 would impose onerous and unfair burdens on importers of silicone rubber and those U.S. companies such as RP which use such imports for their U.S.

production. Such increases would be without cause, and would serve only to significantly damage the business of importers and U.S. companies using these silicone products. American consumers would also suffer as their sources of supply and product selection would be diminished. Furthermore, American consumers would be subjected to higher prices, not only for the silicone products themselves, but also for end products in which the silicone products are incorporated.

B. Section 818 Would Increase Duties in Violation Of U.S. Obligations Under the GATT

As discussed above, enactment of H.R.3 would substantially increase the rate of duty imposed on silicone rubber (and some other silicone products as well). This unilateral, unjustified increase would be in clear violation of the GATT and U.S. commitments made in the MTN.

Under the GATT, tariffs have been generally reduced and "bound". "Bound" means that the tariffs cannot be increased without an agreement and appropriate negotiated compensation. At the Tokyo-round MTN the United States agreed to be bound by the duties negotiated therein for silicone products, as now reflected in the TSUS. The duty rates of silicone products were incorporated into the GATT through U.S. Schedule XX, under paragraphs 1 and 7 of Article II which is an integral part of the GATT.

Thus, the U.S. is bound by the rates agreed to at the MTN. In particular, the U.S. is bound to a duty free treatment in 1987 for silicone rubber currently classified under TSUS item 446.15. The reclassification of products under this item as provided in H.R.3 violates the GATT as it unilaterally imposes increases in the "bound" duty on these products.

Both the U.S. Department of Commerce and the ITC recognized the GATT violation which would result from a similar provision in S.579 which was introduced in the 99th Congress. The ITC stated:

> To the extent that rates of duty are increased above the bound duty rates for any of the affected articles, it should be noted that enactment of the legislation could be viewed as a violation of U.S. obligations to maintain those rates under GATT Article II. Thus, there may be claims for compensation from or retaliatory withdrawals of beneficial concessions by our trading partners. Memorandum to the Committee on Finance on S.579 from the U.S. International Trade Commission, p. 15 (May 23, 1985).

The Department of Commerce noted in its April 25, 1986 letter to Chairman Packwood on S.579 that:

> The rates of duty on the items affected by S.579 are bound in U.S. Schedule XX of the General Agreement on Tariffs and Trade (GATT), and cannot be changed except in accordance with specific procedures prescribed by the GATT. Increases in the

duties on these products could render the United States subject either to claims for compensation, or to retaliation by affected countries. Since a country is not obligated to accept as compensation a duty reduction on another item by the United States, there is no guarantee that the duty reduction on silicone resins provided for in S.579 would be accepted as compensation by our trading partners.

The substantial unilateral increases in duties would indeed be viewed as a violation of U.S. GATT obligations. The United States agreed to be bound by the rates which it negotiated in good faith in the Tokyo-round MTN. If the United States wishes to change the duties on imported silicone (or any product for that matter), the United States should seek such changes by future negotiations with our trading partners.

We call your attention to the fact that attempts by the United States to change rates of duty found in the U.S. Schedule XX of GATT have not gone unnoticed by our trading partners. Indeed, officials of the Embassy of France and the Embassy of the Federal Republic of Germany and the Delegation of the Commission of the European Communities opposed the provisions of S.579 and were of the unanimous opinion that the rates of duty on the items affected by S.579 are bound in U.S. Schedule XX of the GATT and cannot unilaterally be changed. Although the Subcommittee on Trade of the Committee on Ways and Means is now considering Section 818 and not S.579, the provisions in the two bills are virtually identical and their comments are as significant today as they were last year.

May we also at this time refer to S.205 introduced by Senator Heinz on January 6, 1987. This bill recognizes the importance of maintaining the status quo with respect to imported silicone products and is consistent with the October 1986 draft of the Harmonized System which reflects the position that the U.S. is bound by the U.S. Schedule XX under GATT.

In summary, the United States cannot merely ignore its GATT commitments by increasing duties to rates which impose serious hardships on importers and U.S. manufacturers using imports.

C. The Enactment Of Section 818 Would Invite Lawful Retaliation By The Trading Partners Of The United States

As discussed above, enactment of Section 818 would result in violation of U.S. obligations under the GATT. Even though the bill does lower the duty rates for some products, the United States is not entitled to unilaterally choose the form of compensation for a GATT violation. Therefore, the trading partners could lawfully retaliate against the U.S. by imposing corresponding increases on U.S. exports. The excerpt from Department of Commerce letter to Senator Packwood set forth above acknowledges this. Such retaliatory actions would inflict hardships on innocent U.S. industries. The retaliatory actions might well result in lost profits for American industries and lost jobs for American workers. Congress should recognize the imprudence of setting such a damaging cycle in motion, and reject Section 818.

Even if our trading partners choose not to retaliate against the GATT violations resulting from Section 818, such legislation would still have the detrimental effect of giving approval to the concept of unilateral amendment to concessions and unilateral compensation. In the future, our trading partners may point to this example in contending that since the United States can choose the compensation for its violation, then our trading partners in turn should be able to choose the compensation when they change their duties unilaterally.

D. Section 818 Is Not Revenue Neutral

Historically, proponents of tariff increasing bills have argued that the bills were revenue neutral.

Section 818 is not revenue neutral. The argument of revenue neutrality is based on the fact that various forms of silicone are now subject to duties ranging from 0.0 percent ad valorem (for silicone rubber) to $.01 per lb. plus 7.7 percent ad valorem (for silicone resins). The conclusion, therefore, of the "revenue neutrality" argument is that classifying all forms of silicone together and levying a duty rate of 3.7 percent ad valorem would not change the total customs duties collected, because it would decrease the duties on some imports, while increasing the duties on others. This argument is flawed, however, as the products which would have decreased duties are not imported in the same quantity as are the products which would be subject to increased duties. However, even if Section 818 were revenue neutral, enactment of the bill could not be justified for the many other reasons that we have advanced in this presentation.

The chart below lists the major TSUS items which upon enactment of Section 818 would be reclassified under TSUS item 445.55 subject to a MFN (column 1) duty rate of 3.7 percent ad valorem in 1987.

TSUS ITEM	ARTICLE DESCRIPTION	1987 MFN (COLUMN 1) DUTY RATE
429.95	Organo-silicon compounds	3.7% ad valorem
445.56	Silicone resins	$.01 per lb. plus 7.7% ad valorem
446.15	Silicone rubber	Free
474.62	Putty and similar caulking or glazing products, other	3.7% ad valorem
494.60	Cements not specifically provided for	2.1% ad valorem

As the chart indicates, TSUS items 429.95 and 474.62 are subject to a 3.7 percent ad valorem rate of duty; therefore, reclassification under TSUS 445.55 (with its corresponding 3.7 percent ad valorem rate of duty) would have no effect on the duties imposed on those items.

Reclassifying products now under TSUS item 494.60 to proposed TSUS item 445.55 would increase the duty on those products from 2.1 percent ad valorem to 3.7 percent ad valorem (an increase of 76 percent). Determining the dollar amount of this increase in duties on silicone products is difficult, as 494.60 is a "basket" tariff provision which encompasses more than just silicone products. Thus, the total number of 494.60 imports which are silicone products cannot be separately determined, and a revenue effect for silicone products would be unreliable and difficult at best to estimate, although it would certainly be an increase.

The best way to compare the net revenue effect of Section 818 is to offset the increase in customs duties for silicone rubbers currently classified under TSUS item 446.15 (from 0.0 percent to 3.7 percent) which would result from enactment of Section 818, by the decrease in customs duties which would occur for silicone resins currently classified under TSUS item 445.56 (from 1¢ per pound plus 7.7 percent ad valorem to 3.7 percent ad valorem). The following charts demonstrate that enactment of Section 818 would result in a substantial increase in customs duty revenue. The import volume and value figures are based on official 1986 import statistics, and the duty comparisons are based on 1987 duties, with, and without, the enactment of Section 818.

TSUS ITEM	DESCRIPTION	IMPORTS QUANTITY (lbs.) / DOLLAR VALUE	COMPARISON OF DUTIES: 0.0% (current) / 3.7% (under H.R.3)
446.15	Synthetic rubber		
446.1533	Silicone	7,217,823 / $14,165,529	
446.1571	Masterbatches containing carbon black	2,016,543 / $ 1,203,569	
446.1576	Masterbatches NSPF	4,254,533 / $ 3,983,521	
446.1580	Synthetic rubber	344,247 / $ 1,593,393	
Totals		13,833,146 / $ 20,946,012	- 0 - / $ 775,002*

*The net increase in duties collected if H.R.3 is enacted is $775,002.00

TSUS ITEM	DESCRIPTION	IMPORTS QUANTITY (lbs.) / DOLLAR VALUE	COMPARISON OF DUTIES: $.01 per lb. + 7.7% (current) / 3.7% (under H.R. 3)
445.5660	Silicone resins	1,992,462 / $ 4,957,145	$401,624 / $ 183,414*

*The net decrease in duty if Section 818 is enacted is $218,210.00

Subtracting the net decrease in 445.5660 duties ($218,210.00) from the next increase in 446.15 duties ($775,002.00) indicates that Section 818 would result in increasing 1987 duties by $556,792.00, assuming comparable levels and values of imports in 1987 as in 1986.

E. Section 818 Is In Conflict With The Proposed Conversion of The TSUS To The Harmonized System ("HS")

The United States Trade Representative's ("USTR") Trade Policy Staff Committee's October 1986 Draft Conversion of the TSUS to the HS format classifies silicones under one HS heading which is separated into three subparts. Upon adoption of the HS, silicone fluids, resins and rubbers would be classified under commodity code number 3910.00 with the proposed duties for the distinctly different silicone products indicated in the following chart:

Heading	Article description	Proposed Rates of Duty[1]/ Col. 1	Col. 2
3910.00	Silicones in primary forms:		
3910.00	Elastomeric----------	Free	20.0%
	Other:		
3910.00.20	Dimethylsiloxane fluid-----	3.7%	25.0%
3910.00.50	Other----------	$.22/kg +7.7%	33.5%

1/ Cents per kilogram; percent ad valorem.

This conversion achieves the purpose of classifying silicones under one heading, while preserving the varying duty rates on the distinctly different forms of silicone.

The USTR adopted this method of classifying silicones based on the ITC's proposed conversion for those products in its October 1986 report to the President. The ITC report conformed to the Presidential guidelines under which the ITC was to conduct its investigation and issue its report. The President's guidelines stated:

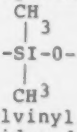
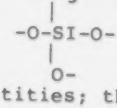
> In converting the tariff schedules the Commission should avoid, to the extent practicable and consistent with sound nomenclature principles, changes in rates of duty on individual products. However, the U.S. tariff structure should be simplified to the extent possible without rate changes significant for U.S. industry, workers, or trade.

The classification for silicones, which was recommended by the ITC and adopted by the USTR, is consistent with the purpose of harmonizing the TSUS with the tariff schedules of our trading partners without disruptive duty changes and with continued recognition of the distinct nature of various silicone products. The classification and rates of duty of the individual silicone products remain virtually the same.

When the USTR was evaluating the ITC's report, two domestic chemical companies (Dow Corning Corp. and General Electric) submitted comments urging the USTR to not adopt the ITC's recommendation, but instead adopt a single classification with the same rate of duty for all silicone products. These companies articulated arguments based on the chemical similarity of silicone products; their true motivation was one of self interest and protectionism. They were not concerned with the manner in which silicone products are classified, except as businesses which realize that a reclassification of silicones could result in an increase in duties on those products which are competitive with the products produced by Dow Corning and General Electric, giving these companies a competitive advantage. The USTR wisely rejected those arguments and adopted the recommendation of the ITC.

Section 818 is an attempt by these same companies to institute the changes which they requested the USTR to make, but which were wisely rejected. Congress should follow the sound reasoning of the ITC and the USTR with respect to the HS and reject H.R.3.

F. Enactment of Section 818 Would Ignore Distinct Chemical and Physical Differences in The Various Forms of Silicon

The various forms of silicone are distinct on a chemical level, a macromolecular level, a marketing level, and an end-use level. There are significant chemical differences in the various forms of silicone. For example, dimethylsiloxane fluids are predicated on dimethysilyoxy repeat units  which insure linear chains. To achieve elastomerics, methylvinyl silyloxy units are introduced and cross-linked by peroxides during fabrication; incorporation of this moriety ensures some cross-linking during post fabrication. Resins are trifunctional materials,  with this chemical bonding being present in large quantities; these units afford cross-link density, gloss and abrasion resistance to the resulting coatings.

One only has to look at the marketing and manufacturing structure of Dow Corning and General Electric to see that silicone products are sequestered into three groups: 1) Fluids and Emulsions, 2) Elastomers, and 3) Resins. All marketing reports and industrial analyses of the silicone business that have appeared in CHEMICAL MARKETING REPORTER, CHEMICAL WEEK and CHEMICAL AND ENGINEERING NEWS have divided silicones into these three segments.

End-uses are similarly sequestered into the above categories. Silicone rubbers or elastomers, because of their light weight, low and high temperature resistence and electrical properties are used for seals and electrical insulation of aircraft, ships, and missiles. Other primary uses of silicone

rubbers are in automotive electronics, electrical appliances, wire and cable, and paramedical industries.

Silicone fluids are used primarily in waxes, polishes and urethene foam. These fluids are also used widely in the water and stain proofing of fabrics, paper, and masonry. Another popular use of silicone fluids is in the cosmetics field. Silicone fluids are often an ingredient in hand creams and lotions, hair spray, pre-shave lotions, aftershave lotions, shaving creams, suntan lotions, lipstick, toothpaste and deodorant.

Silicone resins, because of their heat resistance, have been employed in various electrical devices. They are also widely used in paint, water repellants, and grease coatings.

As the above discussion indicates, there are vast differences in the chemistry and application of the distinct forms of silicone. The proponents of Section 818 have failed to articulate a reason to disrupt this long established practice of separate classification.

IV. CONCLUSION

As discussed above, enactment of Section 818 would increase duties in violation of U.S. obligations under the GATT, inviting retaliation which would make some U.S. industry(ies) pay for an amendment urged by two U.S. companies. Further, it would set a dangerous example of unilateral changes to duty rates and unilateral compensation. Enactment of Section 818 would unfairly put importers and U.S. manufacturers using imported silicone products at a competitive disadvantage. Section 818 also ignores significant differences in distinct silicone products and disrupts traditional classification practices.

For the foregoing reasons, we urge the rejection of Section 818 of H.R.3 to change the current classification or customs duties applicable to silicone products.

Respectfully submitted,

ABLONDI & FOSTER, p.c.
1776 K Street, N.W.
Washington, D.C. 20006
(202) 296-3355

Italo H. Ablondi, Esq.
F. David Foster, Esq.
Sturgis M. Sobin, Esq.

Attorneys for Rhone-Poulenc Inc.

BEFORE THE SUBCOMMITTEE ON TRADE

COMMITTEE ON WAYS AND MEANS

UNITED STATES HOUSE OF REPRESENTATIVES

THE TRADE AND INTERNATIONAL POLICY

REFORM ACT OF 1987, H.R.3

Section 820: Television Apparatus and Parts

Testimony Of: Eddie R. Cox
Director of T.V. Manufacturing Operations
Sharp Manufacturing Company of America (A Division of Sharp Electronics Corporation)
Sharp Plaza Boulevard
Memphis, Tennessee 38193
(901) 795-6510

March 4, 1987

Summary: Sharp Manufacturing Company of America manufactures TVs at a large facility in Memphis, Tennessee. Over half of its 890 employees are employed in TV manufacturing operations. Sharp Manufacturing purchases all of its color picture tubes from unaffiliated third parties. Sharp Manufacturing prefers to buy its color picture tubes from domestic manufacturers but cannot do so on those occasions when domestic manufacturers either lack the capacity or the capability to meet Sharp Manufacturing's color picture tube needs. In those situations where Sharp Manufacturing must purchase color picture tubes outside of the United States, Section 820 of H.R. 3 will favor foreign TV manufacturers to the disadvantage of Sharp Manufacturing by leaving intact the five percent duty rate on the picture tubes imported in finished TVs and complete TV kits made outside America while imposing an eleven percent duty on the color picture tubes purchased by Sharp Manufacturing Company for use in manufacturing TVs in America. To equalize the competitive situation the duty on color picture tubes should be reduced to five percent. Moreover, there should be no duty at all on color picture tubes over twenty-seven inches, since there is no American manufacturer which produces -- or has the present capacity of producing -- picture tubes of that size.

Good morning Mr. Chairman,

My name is Eddie R. Cox. I am the Director of TV Manufacturing Operations at Sharp Manufacturing Company of America. We manufacture television receivers in Memphis, Tennessee. I have asked to testify because portions of Section 820 of H.R.3 would materially impact the viability of a significant portion of our manufacturing operations.

I wish to extend my sincere appreciation to the members of the Committee for the opportunity to appear before you and explain to you how we think Section 820 can be improved so as to keep TV manufacturers in America competitive with overseas producers and keep manufacturing jobs in America.

Section 820 makes changes in items of the Tariff Schedule relating to color picture tubes. Sharp Manufacturing Company manufactures TVs at its factory located in Memphis, Tennessee. Our facilities were constructed from scratch and completed seven years ago. They consist of a TV factory, a microwave oven factory and related facilities built on land owned by the Company. The total initial investment was approximately thirty million dollars. Since then the Company has continuously invested in new and improved production equipment. Our TV manufacturing facilities are as up to date as any other company's facilities in the United States.

Sharp Manufacturing Company employs 890 people in its manufacturing operations. More than half are employed in the manufacture of TVs. Since we began operations in late 1979, we have increased our output every year and have produced a total of 2½ million TVs. In our next fiscal we expect to produce close to 1 million TVs. The Company's current employment level and annual payroll of twenty million dollars are important to the Memphis community. Based on studies done by the Memphis area Chamber of Commerce Sharp Manufacturing Company's presence in Memphis has brought over 550 new non-manufacturing jobs and more than 60 new retailers to the area and has resulted in an increase of annual retail sales of $6.75 million to $13.5 million.

We are proud of the products we make. We do everything we can to make sure that our quality is second to none. Our employees take great pride in their work. This is reflected in the consistent quality and efficiency with which they operate.

I am personally responsible for the purchase of the color picture tubes which we use at Sharp Manufacturing Company. We buy those color picture tubes on the open market. Even though the Sharp Manufacturing Company is the manufacturing division of a subsidiary of Sharp Corporation of Japan, it does not have a related company in the business of producing picture tubes. Indeed, there is only one other significant manufacturer of TVs in this country that does not have a related supplier of picture tubes. Furthermore, Sharp Manufacturing Company is unique in that it is the only significant company in the TV manufacturing business in this country that does not have, or have under construction, an assembly operation just over the U.S. border. As a matter of fact we don't even have any plans for such an operation.

In order to appreciate the significance of Section 820 it is necessary to understand existing law and the changes that Section 820 would effectuate.

Under existing law the duty rate on color picture tubes is fifteen percent. However, there are two ways in which a lower

duty rate can be obtained. The first way is to import a color picture tube as part of an assembly manufactured outside the United States either in the form of a finished TV or a kit containing all the parts necessary to assemble a complete TV. In this case the duty rate is five percent. The second way is to import the picture tube with less than all the parts necessary to assemble a finished TV. In such case the duty rate on the picture tube can also be five percent.

Section 820 of H.R.3 makes three significant changes in existing law:

> First, it provides for duty free treatment for color picture tubes of 12 inches and under.
>
> Second, Section 820 reduces the duty rate on other color picture tubes from fifteen percent to eleven percent.
>
> Third, Section 820 makes color picture tubes imported with limited parts dutiable at the eleven percent rate rather than the five percent rate which is available under existing law.

If Section 820 is enacted in its present form it has the effect of continuing the lower five percent duty rate on picture tubes imported in finished TVs or complete TV kits made outside America. On the other hand it mandates a higher duty rate on picture tubes imported with limited parts by those of us, such as Sharp Manufacturing Company, that employ U.S. workers to manufacture TVs from such imports and support U.S. parts and components industry by buying parts and cabinets from them. This change in the law, which provides a financial benefit to foreign made TVs, has a potentially devastating impact on a significant portion of the operations of Sharp Manufacturing Company.

We purchase color picture tubes of overseas producers only in situations where we cannot obtain them from U.S. sources. In fact, over the past three years we have purchased approximately ninety percent of our picture tubes from U.S. suppliers. We are very concerned, however, about the continuing ability of U.S. suppliers to fully meet our needs for picture tubes in the future, and it is this concern that has prompted our request to appear before this committee.

There are two circumstances which compel us to purchase color picture tubes from overseas suppliers.

The first reason for buying picture tubes from overseas suppliers is when U.S. producers of picture tubes do not have the capacity to supply us with the tubes we require in order to meet our production schedule. This, in turn, requires some understanding of the structure of the industry.

The companies that produce picture tubes in the United States also produce TVs. Those companies' TVs are household words: ZENITH, RCA, MAGNAVOX, SYLVANIA, PHILCO and SONY. About three out of every four picture tubes produced in this country are used by those producers in their own brand name TVs.

Overseas producers of color picture tubes also manufacture TVs which they sell in the United States and elsewhere under their own brand names.

As I mentioned earlier, Sharp Manufacturing Company has no company related to it that is a producer of picture tubes of any kind. We are thus required to purchase color picture tubes on the open market. In light of the structure of the industry the quantity of picture tubes available from domestic producers on that market is but a small fraction of the tubes that they produce.

It is obvious that a tube producer is going to favor his own TV production with tubes when the producer cannot make enough tubes to satisfy its own needs and those of an independent customer. In the past this situation has occurred, and, as a consequence, we have been forced to supplement our domestic purchases of standard size color picture tubes with purchases from overseas. Indeed, as late as last year we had to turn to overseas suppliers to fill our requirements for nineteen inch tubes, a screen size which represents the single largest category of TVs in America.

Furthermore there are significant structural changes which have occurred and are occurring in the picture tube industry. These changes adversely affect the availability of color picture tubes for purchase on the open market. First, GE, which acquired RCA, has announced that it will cease manufacturing color picture tubes--a decision, incidentally, which seemed to stem from GE's decision to curtail the manufacture of consumer products in Portsmouth, Virginia, the practically exclusive consumer of the picture tubes made by GE at its relatively small scale and outdated production facility. Second, Philips has closed one of its older color tube factories in order to achieve economies of scale at its other newer facilites. However, Philips has not been able to achieve increased production as planned at its newer facilities.

As a result of the structural and other changes in the industry there has been a significant decline in the production capacity of color picture tubes over the past three years even though there has been growth in the TV market. The supply of domestic made picture tubes in 1987 would have further eroded but for the fact that Toshiba-Westinghouse commenced the continuous production of color picture tubes in November of last year.

Even with the newly added Toshiba-Westinghouse capacity there is a serious shortage in the capacity of U.S. producers to fill their own needs and those of the open market. Under these circumstances we foresee a continuing need to supplement our domestic picture tube purchases with purchases from overseas suppliers.

Section 820 forces us to pay a premium on these purchases because our minimum duty rate will be eleven percent whereas others that import the tubes as part of a finished TV will have an effective rate of five percent.

The color picture tube is the single most costly component of a TV, representing just under 50% of the material cost in manufacturing a TV. Thus, a significant differential in duty rates among competitors can provide a decisive cost advantage which favors foreign assemblers of finished TVs.

I know that it is not in the best interest of my Company to have a duty rate on picture tubes that provides a decisive cost advantage to foreign assemblers of TVs. And I seriously question whether it is in the best interests of this country to so construct the duty rate structure.

On the contrary, as long as there is going to be a duty imposed on picture tubes, I would urge the Committee to give careful consideration to making the duty rate the same or approximately the same percentage amount as that for finished TVs. This would level the field requiring that decisions to manufacture TVs outside the United States not be made because of a duty rate advantage.

Alternatively, I urge that the Committee consider further lowering the duty rate on color picture tubes with the proviso that such rate may be increased to eleven percent if the Secretary of the Treasury determines that color picture tubes are available on the open market from domestic producers in sufficient quality and quantity and in time to meet the reasonable needs of purchasers in the United States that are not related to the producers.

As I mentioned earlier there are two reasons why we sometimes source color picture tubes from overseas suppliers. I have already covered one reason - because U.S. picture tube producers do not have the capacity to supply the tube we require. I would now like to turn to the second reason.

In some instances U.S. producers are incapable of producing the tube we require. At this time that is the situation with regard to picture tubes over twenty-seven inches. No U.S. producer makes a picture tube in this size range. We, however, have been successfully producing TVs with screen sizes over twenty-seven inches. Since we believe that the large-size TV market will become an increasingly important segment of our business in the years ahead, the inability of U.S. producers to supply picture tubes over twenty-seven inches causes us serious concern.

At the end of 1986 we installed new production line facilities dedicated to large size TVs because our facilities for smaller size TVs cannot be used for production of large-size TVs. We employ a sizeable percentage of our production line workers in this area. This group is presently producing thirty-five inch and projection TVs. Next month it will add thirty inch TVs and later in the year thirty-one inch TVs.

Because of the inability of U.S. producers to supply large-size picture tubes, we are presently forced to buy our thirty-five inch picture tubes from an overseas supplier -- and will have to do the same with our thirty and thirty-one inch picture tubes. In this connection I think it is important for the Committee to know that we did what we could to get a U.S. picture tube maker into this business. As a matter of fact we and other assemblers of TVs were prepared to participate, at the producer's request, in funding the development of a thirty-five inch picture tube, and we committed to purchase one thousand picture tubes a month from this producer. Unfortunately, the producer chose not to proceed with this project.

We import thirty-five inch color picture tubes with other TV parts and pay a five percent duty on the picture tube. Section 820 of H.R.3 would increase the duty on imports of this tube by six percent. The picture tube cost on which the duty would be assessed is over eight hundred dollars. The increased duty would represent an increased cost of over fifty dollars a unit.

We already face one disadvantage relative to our competitors that perform assembly operations over the border. The wage rate which we pay our production workers in America is several times that paid to a production line worker over the border.

Section 820 as it is now written would add a second disadvantage. It imposes a six percent higher rate of duty on the picture tube we purchase than is imposed on a competitor that assembles a TV in a foreign country with foreign labor and then imports the finished TV into the United States.

With perseverance, skill and an extraordinary amount of effort we may be able to overcome the wage rate disadvantage we have relative to foreign assemblers of TVs. However, there is no way that I know of to recoup the fifty dollar additional cost mandated by Section 820 with respect to our thirty-five inch color picture tubes.

A single event causing an increase of fifty dollars a unit is unprecedented in the TV business. In the manufacturing end of the business we think of costs in terms of pennies and efficiencies in terms of seconds of production time. We are forced to because of the intensely competitive nature of the TV business. I am therefore concerned that Section 820, if enacted, will drive us out of the domestic manufacture of large-size TVs, for there is no domestic producer of picture tubes from whom we can buy the large-size tubes which we need. Should this happen, we would not only lose our investment in the new facilities which we just built for production of large-size TVs, but, more importantly, many jobs will be lost this year alone, and many more future jobs will be jeopardized.

Since there is no domestic producer of color picture tubes of more than twenty-seven inches, I would urge the Committee to consider including such picture tubes in the duty free category along with the tubes of thirteen inches or less. Color picture tubes of less than thirteen inches are simply not produced in America, and hence the duty free status accorded them by Section 820 will not injure the domestic producers. Likewise, the extension of duty free status to picture tubes over twenty-seven inches will not injure the domestic industry.

In closing, I would like to re-emphasize that Section 820 should be improved so as to protect American jobs. This can best be done by removing the advantages which the presently proposed version of Section 820 gives foreign TV producers. First, the duty rate for picture tubes should be the same as that for finished TVs produced outside the United States -- five percent -- with perhaps some mechanism for restoring a higher duty whenever U.S. TV manufacturers who do not produce their own picture tubes can be assured that their picture tube needs can be met on the open market by U.S. producers. Second, there should be no duty at all on color picture tubes of more than twenty-seven inches.

I would like to thank the committee for its time and attention.

March 4, 1987

Eddie R. Cox

STATEMENT OF BURTON V. WIDES AND MARGARET ELLEN ROGGENSACK, COUNSELS, TOSHIBA AMERICA, INC.

INTRODUCTION

These comments are submitted on behalf of Toshiba America, Inc. ("TAI"), headquartered in Wayne, New Jersey. TAI strongly opposes Section 820, Title VIII, H.R.3 and requests an opportunity to testify at any Committee hearing to be held on this provision.

TAI is a U.S. subsidiary of Toshiba Corporation of Japan. TAI conducts a number of substantial U.S. production operations, including the manufacture of televisions, microwave ovens and other electronic products at a plant located in Lebanon, Tennessee, near Nashville.

TAI imports components constituting unfinished television receiver assemblies, including picture tubes, for those television models manufactured at its Tennessee plant for which picture tubes are not available in the U.S. Such assemblies are classifiable under item 684.96, TSUS, dutiable at a rate of 5% ad valorem. The bill would make tubes above 12 inches imported with components separately classifiable under item 687.35 and dutiable at 15% ad valorem. The bill provides a temporary, two-year duty suspension on tubes 12

inches and under, because these tubes are unavailable in the U.S. Tripling the duty on these tubes will do nothing to encourage purchases of domestic tubes.

Last year, the House of Representatives passed the identical provision. This provision did not pass the Senate because many members felt that while doing nothing to increase domestic tube purchases, the bill would encourage existing domestic assembly operations to shift production offshore, thereby jeopardizing U.S. investment and employment.

SUMMARY OF ARGUMENT

Congress faces the challenge of enhancing the Nation's competitive posture in ways that will have a tangible, near-term impact on jobs for American workers. In essence, this means making goods wholly or substantially manufactured in the U.S. more competitive with goods made abroad and imported. While this bill is a well-intentioned effort to encourage increased purchases of U.S. picture tubes and thereby help American workers, it would achieve neither objective. TAI already purchases from U.S. suppliers all of its requirements for those picture tube sizes and types which are available to it from U.S. suppliers. TAI only imports picture tube sizes and types not available from any U.S. manufacturers. While doing nothing to encourage purchases of domestic picture tubes, the bill would make it much more

74-808 - 87 - 3

expensive for TAI to assemble in Tennessee those models for which it must import unfinished receiver assemblies including picture tubes -- so expensive that TAI would amost certainly be forced to import those models as finished TV's, instead of assembling them in the U.S. This would jeopardize the jobs of TAI's assembly workers.

Several developments since this committee reported the measure last year further confirm the bitter irony of this bill, namely that it punishes companies like TAI for making TVs in the U.S. while rewarding competitors for moving offshore and throwing U.S. citizens out of work:

o TAI is taking the initiative to increase sourcing of tubes here, independent of any legislative "inducement." TAI has begun production of some of its tubes in the U.S. in a joint venture with Westinghouse in New York. The plant supplies TAI and other U.S. manufacturers of finished televisions with tubes not available here as well as with tubes of sizes and types made in the U.S. but not manufactured in sufficient quantity to meet existing demand.

o Despite predictions made to the commitee last year, there is still no U.S. production of tubes in larger sizes of 30 inches and above. Moreover, the availability of "domestic brand" televisions in the U.S. does not imply that those sets include tubes made in the U.S. In many cases, notably 13 inch sets, they do not.

o In fact, despite denials, it is now clear that Zenith Electronics Corp. and other U.S. firms are producing televisions offshore, while TAI has continued to expand its U.S. television operations.

TAI believes the tariff increase is inappropriate. But if a tariff increase will form a part of the House trade bill, TAI strongly suggests that at an absolute minimum, the bill be modified to include a temporary duty suspension for tubes 30 inches and above, paralleling the suspension in the bill for tubes 12 inches and below. There is no difference between the two categories -- neither product category is available in the U.S. Should domestic manufacturers start to produce tubes in these sizes at some future date, Congress can always end the suspension.

BACKGROUND

The present classification of picture tubes imported together with components as unfinished receiver assemblies stems from a long line of Customs precedent, based on fundamental principles enacted by Congress as part of the Tariff Schedules in 1962.

Nine times in the past 16 years, Customs has ruled that a picture tube, when imported with the basic operating portion of a receiver, is an unfinished television receiver subject to a 5% duty. Modifications of the tariff schedules in 1977 to implement orderly marketing agreements on

televisions and in 1979 to implement duty concessions on monochrome assemblies deliberately left unchanged the existing tariff treatment of unfinished assemblies including tubes. On four separate occasions following these tariff schedule modifications, Customs reaffirmed that tubes imported with receiver components are classifiable as unfinished receiver assemblies and dutiable at 5%. (See Appendix A for detailed chronology of tariff treatment of tubes imported with receiver components.)

DISCUSSION

I. The Proposal Would Reverse a Long-Standing Tariff Treatment Based on Fundamental Principles

This bill would not clarify any open issue or close any "loophole." To the contrary, it would reverse longstanding tariff treatment based on consistent application by Customs of fundamental classification principles enacted by Congress as part of the Tariff Schedules in 1962.

While a part of an article imported separately and specifically provided for is to be classified under that specific provision (General Headnote 10(ij)), unassembled parts sufficient to constitute an "unfinished" article are to be classified as the article itself (General Headnote 10(h)). There is absolutely no indication that Congress ever intended any different principle to apply with respect to picture tubes imported as part of an unfinished television assembly.

II. A Tariff Increase on Picture Tubes Will Not Increase Purchases of Domestically Produced U.S. Color Television Picture Tubes

The tube tariff increase proposed is premised in part on the assumption that the U.S. picture tube industry is being "battered" by imports. This simply isn't the case. TAI and "Japanese brand" companies are the biggest customers for non-captive tube production of Zenith, RCA and Phillips. TAI and others use these tubes to make TVs in the U.S. The 300% duty increase which H.R. 3 would impose will not induce TAI to purchase any U.S.-produced tubes in place of those TAI now imports. TAI already purchases from U.S. suppliers all of its requirements for picture tubes available to it in the U.S.

The picture tubes imported by TAI, as part of receiver assemblies, are either conventional tubes currently not available from U.S. producers or are Flat Square Tubes not available with the specifications required by TAI for Toshiba-brand televisions. TAI does purchase some Flat Square Tubes, manufactured domestically and not possessing Toshiba specifications, for the manufacture of other brands. Naturally, TAI would not use these tubes in its own sets -- to do so would be to relinquish a product difference which is critical to marketing strategy.

Since the Flat Square Tubes needed for Toshiba sets are not offered by any U.S. manufacturer, the only way to "source" these Flat Square Tubes in the U.S. is to make them in the U.S. And TAI is doing so. TAI itself, in a joint venture with Westinghouse, late last year commenced the manufacture of 19" conventional and 20" Flat Square Tubes in the U.S., at a plant in Horseheads, New York. TAI's venture could ultimately lead to the production of a range of tubes in sizes and commercial characteristics not available here. This result cannot be achieved overnight; it will require the establishment of a "foothold" in the U.S. for TVs using these tubes. In the meantime, TAI can continue to assemble TVs here using these tubes only if it is able to import them at a rate equivalent to that for finished televisions. Moreover, it still remains necessary for TAI to import conventional tubes in sizes less than 13", size 15", and Flat Square picture tubes in sizes 14" and 26" -- none of which are produced or sold in the U.S.

At the same time, despite denials to the contrary, it is clear some domestic manufacturers have moved tube and finished television production offshore. Zenith and North American Phillips now import 13" sets previously assembled here. The tubes in these sets are either foreign made or substantially assembled abroad. Zenith will increasingly be importing completed TVs, including tubes, made or assembled in substantial part by foreign workers. Zenith has six

plants, representing a total investment of over $200 million, in Mexico. These operations were responsible for a surge in finished television imports from Mexico last year, principally 13, 18 and 19 inch TVs. (Television Digest, 9/15/86, p. 16). A substantial part of the picture tube for these sets is assembled in Mexico. The passage of a TV tube tariff increase will not change this situation. Zenith's president has stated publicly that Zenith intends to continue to expand TV manufacturing operations in Mexico. (Television Digest, 4/28/86, p. 9).

TAI cannot now and will not in the near future be able to obtain from U.S. suppliers the sizes and types of picture tubes it now imports, notwithstanding commencement of production at the joint venture facility. The proposed tariff increase on picture tubes therefore will not induce additional purchases of U.S.-produced picture tubes by TAI, since no amount of duty increase can induce TAI to purchase in the U.S. tubes that are not made or sold here.

III. The Proposed Tariff Increase on Tubes Threatens U.S. Jobs

In creating a 10% duty differential between finished television imports and tubes imported with receiver components, the bill will penalize TAI for importing tubes for assembly here while rewarding TAI's competitors for moving TV operations offshore. The differential would make TAI less competitive, thereby jeopardizing U.S. TV assembly jobs.

Today there are thousands of American workers employed in the assembly of "Japanese-brand" television sets and in the manufacture of parts for these sets at plants in Tennessee, Alabama, Illinois, California, New York, and other states. TAI and many other "Japanese-brand" assembly operations employ union workers and pay union scale wages. At the same time, American workers in "domestic-brand" assembly plants have lost their jobs to non-American workers as domestic manufacturers have shifted their operations offshore. Over 6,000 workers have lost jobs at Zenith faciilties alone as Zenith has moved operations to Mexico.

As compared with tube production, which is highly automated, TV assembly operations are labor intensive and offer a substantial source of employment. U.S. TV assembly operations involve much more than "minor" "screwdriver" operations. In addition, following assembly, the sets must be tested and final adjustments made. The bill would have several adverse, unintended consequences for TAI's operations. It would jeopardize existing operations, including a recently-opened assembly line, TAI's third. It would discourage future expansion by making it too costly to assemble in Tennessee models for which TAI must import receiver components including picture tubes. Finally, the bill would also adversely impact the U.S. firms from which TAI now obtains componentry for the television sets assembled in Tennessee. These U.S.-produced components represent fully

40 percent of the materials cost of the televisions assembled in Tennessee, and hundreds of jobs for workers in other U.S. firms.

At a time when U.S. parent firms are moving their television manufacturing outside the U.S., TAI is expanding its U.S. operations and putting more Americans to work. A tariff increase on tubes threatens to make TAI's expansion economically senseless -- and indeed will force TAI to cut back existing U.S. assembly operations.

Insofar as it affects TAI, the proposed tariff increase would seriously threaten a loss of U.S. jobs without creating a single additional sale of any picture tube or any more U.S. employment.

IV. Tube Tariff Increase Would Discourage Foreign Investment

A tariff increase on tubes would give Zenith an unfair competitive advantage in the form of a 10% differential for its Mexico TV production at the expense of U.S. workers employed by TAI and others in U.S. assembly facilities. This situation would jeopardize existing investment by TAI. TAI may not be able to afford to import tubes for assembly here while it is developing the U.S. market for new, untested tube technology and expanding capacity for tube production at its Horseheads facility. As a consequence, TAI's trend of increased U.S. investment in TV and tube operations would be reversed.

V. Enactment of Tube Tariff Increase Would Violate GATT

The proposed amendment to the Tariff Schedules would constitute a unilateral increase of a negotiated rate on television receivers, in violation of U.S. obligations under Article II(1)(a) of the GATT. (See Appendix B for a more detailed discussion.)

VI. Enactment of Tube Tariff Increase Would Undermine U.S. Trade Policy

Congress, of course, is the ultimate arbiter of tariff classification disputes and is empowered to establish and modify the Tariff Schedules in any way it deems fit. In considering this legislation, Congress should be mindful that a legislated change in long-established Customs treatment would surely be perceived by our trading partners as "bending the rules" of fair trade (if not also a clear violation of their rights under negotiated agreements), and could invite retaliation and disruption of trade negotiations.

VII. At Minimum, Logic and Fairness Dictates That Tube Tariff Provision Include Parallel Duty Suspension for Tubes in Sizes of 30 Inches and Above

The tube tariff provision includes a temporary, two-year duty suspension for tubes of 12 inches or less in size, because these tubes are not available in the U.S. Tripling the duty on these tubes will do nothing to encourage purchases of domestic tubes. Logic and fairness requires

that the provision contain a parallel duty suspension for tubes in sizes of 30 inches or more. Like the tubes 12 inches and under, tubes 30 inches and over are not manufactured in the U.S., and TAI will have to continue to import them.

The treatment of tubes of 30 inches and larger cannot fairly be distinguished from the treatment of tubes 12 inches and under. If there is any contrary argument by the proponents of this bill, the International Trade Commission could quickly ascertain the facts as an empirical matter. As for the future, domestic manufacturers may suggest that they plan eventually to make large size tubes. To date, they have not developed the technology to make a satisfactory glass envelope for tubes in those sizes. Production of these tube sizes also requires an established market sufficient to justify tube production in these sizes on a commercial scale and the construction of a substantially new assembly line. In any event, the temporary duty suspension is a flexible response. Should domestic manufacturers start to produce tubes in these sizes at some future time, then Congress can always end the temporary duty suspension.

CONCLUSION

The proposed tube tariff increase undercuts rather than enhances the competitiveness of U.S. industry. Enactment of a tariff increase on picture tubes can not encourage sales of domestic picture tubes which are not

available. It will jeopardize the jobs of U.S. television assembly and other workers, while facilitating imports of finished TVs by offshore operations. This legislation would discourage immediate plans for further investment in assembly operations, and would chill foreign investment generally. Such legislation violates U.S. obligations under the GATT and undercuts U.S. trade policy.

At the very least the proposal should include a parallel temporary duty suspension for tubes of 30 inches and above. These tube sizes cannot fairly be distinguished from tubes 12 inches and under. Neither category is available in the U.S. and a 300% duty increase is inappropriate. The parallel provision will ensure that domestic operations are not penalized while these tubes are unavailable here; the short duration should cover the period of time necessary to develop domestic capability to manufacture these tubes. Alternately, if no such capability is developed, Congress can renew the duty suspension.

For the above reasons, TAI urges that the proposal not be enacted in its current form.

APPENDIX A

Tariff Treatment of Tubes Imported with Receivers, 1962 to Present

Item 684.96, TSUS, derives from item 685.20, covering "television apparatus and parts thereof," dutiable at 10% ad valorem. This item was enacted as part of the original Tariff Schedules of the U.S. (TSUS) in 1962. At the same time Congress provided a separate tariff item (687.50) for television picture tubes, dutiable at a higher rate (15%). The TSUS also included General Headnote 10(h), which provides that a tariff description for an article covers that article "whether assembled or not assembled, and whether finished or unfinished."

In the 1967 Geneva Protocol to the GATT, which was completed at the conclusion of the Kennedy Round of Multilateral Trade Negotiations (MTN), the United States agreed to assess a maximum duty rate of 5% ad valorem on television apparatus classified under TSUS item 685.20. A continuous, consistent line of U.S. Customs Service rulings, going back 14 years, has treated the basic operating portion of a receiver, when imported together with a picture tube, as an unfinished television receiver subject to this lower rate.

In five rulings beginning in 1971, Customs construed the original tariff description for television apparatus (item 685.20) to include incomplete television receiver assemblies, constituting the basic operating portion,

imported together with picture tubes. Customs' decisions were based on General Headnote 10(h). In 1971, Customs ruled that a television chassis imported with a picture tube packed, unmounted, in the same carton (without cabinet, speakers and other parts), was classifiable under item 685.20. (Ruling Letter MFG 431.51MA, 009050 (Feb. 3, 1971)). In 1972, Customs ruled that an identical number of television tubes and chassis imported in the same shipment, to be assembled and put in cabinets in the U.S., were classifiable under item 685.20. (Ruling Letter MFG 431.51WR, 018022 (June 15, 1972)).

Again in 1973, Customs ruled that a chassis containing the essential components of a television set imported with a picture tube in the same shipment was to be classified as an "unfinished television receiver" under item 685.20. (Ruling Letter CLA-2:R:CV:S 431.51, 029088 (July 30, 1973)). In 1977, Customs held classifiable under item 685.20 kits containing a completed chassis, plus yoke, speakers and tuners, imported in unassembled condition, together with a picture tube. (Ruling Letter CLA-2:R:CV:MSP, 051204 SC (August 1, 1977)). In 1978, Customs ruled that transistors, diodes, capacitors, resistors, integrated circuits, printed circuit boards and the like combined in such a way as to constitute the basic operating portion of a television receiver were classifiable as an unfinished television set

under item 685.20. (Ruling Letter CLA-2:R:CV:MSP, 053119 SC (September 7, 1978)).

In 1977, the Special Trade Representative (STR) directed the Customs Service to monitor color televisions and assemblies on the basis of statistical categories established by STR, in order to implement Orderly Marketing Agreements. These statistical categories were all subcategories of item 685.20 and included "complete television receivers," "kits containing all parts necessary for assembly into complete receivers," and "other assemblies," i.e., less-than-complete kits. To the extent they constituted the basic operating portion of a receiver, these unfinished or incomplete assemblies were already classifiable under item 685.20 under the Customs rulings cited above going back to 1972.

In the Tokyo Round MTN, duty concessions were negotiated on monochrome assemblies. The 5% duty rate on color receivers and assemblies was left unchanged. To implement the monochrome concessions, the President established a series of new sub-categories under TSUS item 685.20 (Proclamation No. 4707 issued December 1979). These included item 685.11 and item 685.14. Item 685.11 (now item 684.92) covers "television receivers and parts thereof, having a picture tube, complete television receivers, color" and item 685.14 (now item 684.96) covers "television receivers and parts thereof, having a picture tube, assemblies (including kits containing all parts necessary for

assembly into complete receivers)." Item 685.14 (now 684.96) clearly included but was not limited to "complete kits since it included the "other (i.e. less-than-complete) assemblies" subcategory created by STR; that statistical category is now item 684.9656-63. Again, these incomplete assemblies constituting the basic operation portion of a receiver, had always been classifiable under item 685.20, the predecessor to item 685.14 (now 684.96). On three occasions after the 1979 amendments to the TSUS, the Customs Service affirmed that the basic operating portion of a television receiver imported together with a picture tube constituted "assemblies" classifiable under item 685.14, TSUS, dutiable at the 5% rate. CLA-2:CO:R:CV:S 067477SC (Sept. 24, 1981); CLA-2:CO:R:CV:S 067670SC (1982); CLA-2:CO:R:CV:S 071185SC (June 3, 1982). And this line of authority has been recently reviewed again in exhaustive detail and upheld by the Customs Service.

In 1983, there was a domestic challenge Customs' classification under item 685.14 of unfinished television receiver assemblies including picture tubes. The challenge was filed pursuant to Section 516 of the Tariff Act of 1930, which enables domestic interested parties to petition Customs for a change in the classification of imported merchandise.

Customs issued an exhaustive decision, concluding that the merchandise, a television picture tube imported with chassis and customer control panel, was properly classified

under item 685.14. (CLA-2 CO:R:CV:V 553020 BNS (Nov. 15, 1984)).

H.R.3 would overturn Customs' decision by amending the tariff schedules to require that picture tubes above 12 inches imported with an unfinished receiver assembly be classified separately under item 687.35, dutiable at a rate of 15% ad valorem. The bill would thus triple the duty rate on such picture tubes.

APPENDIX B

The United States agreed in the 1967 Geneva Protocol (Kennedy Round), to a maximum duty of 5% ad valorem on television receivers classified under TSUS item 685.20. This item number has been repeatedly and consistently interpreted by Customs as including unfinished receiver assemblies having a picture tube, pursuant to General Headnote 10(h). The proposal would re-define television receivers to exclude unfinished assemblies, and would subject picture tubes included in such assemblies to a 15% duty, rather than the 5% maximum duty agreed to in the Geneva Protocol.

This unilateral tariff increase by the United States would violate Article II(1)(a) of the GATT, which provides:

> Each contracting party shall accord to the commerce of the other contracting parties treatment no less favourable than that provided for in the appropriate Part of the appropriate schedule annexed to this Agreement.

This provision prohibits the United States, a GATT signatory, from establishing a duty rate on an import which would exceed the duty rate agreed to either in the schedule annexed to the GATT or negotiated at a subsequent trade round and embodied in a Protocol to the GATT. More specifically, paragraph 5 of Article II prohibits increases in such duty ceilings through changes in classification. The proposal, by increasing a GATT-bound rate through a classification change, exposes the U.S. to sanctions including compensation to parties affected by modifications to the established duty rate ceiling.

STATEMENT OF JOHN J. SHEEHAN
ON BEHALF OF
UNITED STEELWORKERS OF AMERICA, AFL-CIO
BEFORE THE
SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS
UNITED STATES HOUSE OF REPRESENTATIVES
FEBRUARY 27, 1987

I am John J. Sheehan, Legislative Director of the United Steelworkers of America, AFL-CIO and submit this statement on behalf of the United Steelworkers of America in support of Section 850 of H.R. 3 to suspend until the close of December 31, 1990, the duty on certain bicycle parts and to continue until that date the present exclusion of bicycle component parts from the exemption from Customs law otherwise available in a foreign trade zone.

The Steelworkers Union represents the workers at the Huffy Bicycle plant in Celina, Ohio, as well as workers of other bicycle parts supplying firms.

Five years ago Huffy Corporation applied for Foreign Trade Zone status which, if granted, would permit it to import foreign components at a rate lower than the applicable tariff schedule.

We filed our objections to granting FTZ status with the Foreign Trade Zones Board under Docket No. 17-82, and we continue to believe that the "Analysis"* of granting such status is incorrect factually and interpretively; and that it failed to determine that "a net domestic benefit" would result from such conference. For example: in its analysis of Employment in the Bicycle Industry, there is this finding: "Based on available data, it is difficult to say whether net employment will increase or decrease as a result of foreign subzone at Huffy". ("Analysis," page 16).

Huffy employs about 1800 workers equally divided between those who produce steel tubing components and those who are engaged in final assembly. We believe that the conference of subzone status at Huffy constitutes a threat to those 900 component producers who earn $9.40 per hour and receive an additional $4.00 per hour in fringe benefits. This represents a total potential loss of earnings of over $24 million.

While we support the duty suspension in Section 850, without the foreign trade zone exclusion it would be unfair because it would break the current tariff neutrality (favoring neither bicycle importer nor domestic manufacturers) and it would create an incentive for domestic bicycle manufacturers to exchange its high-skilled manufacturing jobs for lower-skilled and lower-paid assembly jobs. Therefore, duty suspension and the foreign trade zone exclusion are morally and logically interwoven.

We urge the Subcommitte on Trade to favorably report Section 850 of H.R. 3.

---

* "Potential Effects of Foreign Trade Subzones on the Bicycle Industry", issued by the Office of Consumer Goods, International Trade Administration, U.S. Department of Commerce, dated March 9, 1984.

TUNDALL L. BAUCOM
Vice President

Virginia Electric and Power Company
Post Office Box 26666
Richmond, Virginia 23261
804 771 3380

March 3, 1987

VIRGINIA POWER
NORTH CAROLINA POWER
WEST VIRGINIA POWER

Mr. Joseph K. Dowley
Majority Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Dowley:

The Virginia Electric and Power Company (the Company) wishes to express our concern with certain language in House Bill H.R.3 entitled the "Trade and International Economic Policy Reform Act of 1987". Specifically, we are opposed to Section 817 (page 422), which deals with the introduction of a three dollar per pound tariff on Uranium Hexafluoride (UF6) imported to the United States from Canada. This language does not specifically address Canada, but is no doubt in response to Canada's policy requiring upgrading of uranium by conversion to UF6 prior to its export.

Currently, the Company is in the final stages of contract negotiation with Eldorado Resources of Canada for UF6 conversion services. This contract was obtained by Eldorado under a competitive bidding process without regards to Canada's upgrade policy. It will provide substantial savings in fuel costs when compared to the Company's present UF6 conversion costs. Should the above UF6 legislation be enacted, the Company will be exposed to approximately 1.5 million dollars or more per year in additional fuel costs. We might also point out that we recently signed a contract with a U.S. convertor as a result of the same bid solicitation.

Because of present market conditions, the only viable sources of uranium available to the Company are located in Canada and the United States. Therefore, we plan to have UF6 conversion contracts in both the U.S. and Canada to meet our requirements. From our perspective, it would be essential for the Company to purchase a significant portion of our requirements from Canada, with or without their upgrading policy. Therefore, this legislation would have little impact on Canadian uranium sales, but would significantly increase our uranium costs.

As a utility we have an obligation to supply reliable and low cost electricity to our customers. Legislation such as contained in the aforementioned Section 817 that needlessly restricts free trade inhibits our ability to do so. For the reasons expressed above, the Virginia Electric and Power Company respectfully requests your assistance to strike Section 817 from House Bill H.R.3.

Very truly yours,

T. L. Baucom

WRITTEN STATEMENT OF WALD MANUFACTURING COMPANY, INC.
BY CARLTON P. PAWSAT, PRESIDENT, WALD MANUFACTURING
COMPANY, INC., P.O. BOX 10, MAYSVILLE, KENTUCKY

IN SUPPORT OF SECTION 821 OF H.R. 3

INTRODUCTION OF WALD MANUFACTURING COMPANY, INC.

Wald Manufacturing Company, Inc. has manufactured bicycle parts since 1905. Other than our war materials productions efforts in World War II, bicycle parts have always been our product line. Since 1924, we have been located in Maysville, Kentucky.

While our company does not manufacture bicycle type speedometers (whether for over-the-road usage or for use on exercise equipment), we are well aware of the deluge of imports which have threatened the continued viability of U.S. bicycle parts manufacturers. Many U.S. companies have been forced to cease, or sharply curtail, U.S. production of bicycle component parts. Indeed, our own employment has dropped drastically from over 400 employees working overtime in 1973-74 to approximately 200.

THE NEED TO CLASSIFY ALL BICYCLE TYPE SPEEDOMETERS AT THE SAME RATE OF DUTY

It is in this context that we wish to express our support for section 821 of H.R. 3. This provision is identical to H.R. 2913, a bill introduced in the 99th Congress by Congressman Quillen in order to amend the current anomaly of the U.S. Tariff Schedules. That anomaly is that speedometers which are declared to be imported for use on bicycles are subject to a 17% ad valorem tariff (TSUS item 711.93), while those which are declared to be imported for use on exercise bicycles are subject to a zero ad valorem tariff (TSUS item 711.98), even though the latter group are capable of use on "over-the-road" bicycles, without modification. Section 821 of H.R. 3 would rectify this anomaly by treating all bicycle speedometers, whether intended for use on exercise bicycles or "over-the-road" bicycles, as "bicycle type speedometers", subject to a 17% ad valorem tariff.

Stewart-Warner Corporation, the only remaining U.S. producer of speedometers for use on bicycles and exercise equipment, requested the tariff schedule correction set forth in Section 821 of H.R. 3. As the speedometers used on over-the-road bicycles are functionally identical to those used on exercise bicycles (Stewart-Warner informs us that the identical speedometer heads, cables and drive mechanisms are produced by their same U.S. employees on the same production line for use on either bicycles or exercise equipment), they should be classified as the same item for tariff purposes. The distinction between bicycle type speedometers and "other speedometers" (i.e. speedometers for motorized vehicles), which historically has been based on the fundamentally different speedometer heads on the two due to factors such as vibration, anticipated life of the product, and distance to be traveled, should remain.

CONCLUSION

All bicycle type speedometers should be classified the same for tariff purposes, whether used on bicycles or exercise equipment. The distinction from speedometers used on motorized vehicles should be maintained. Section 821 of H.R. 3 accomplishes these goals and should be enacted into law.

IN SUPPORT OF SECTION 850 OF H.R. 3

INTRODUCTION OF WALD MANUFACTURING COMPANY, INC.

Wald Manufacturing Company, Inc. has manufactured bicycle parts since 1905. Other than our war materials productions efforts in World War II, bicycle parts have always been our product line. (The index of our current catalog of parts produced by Wald is attached as an Exhibit to this testimony.) Since 1924, we have been located in Maysville, Kentucky.

We are a small business in a rural community. Our operations, equipment and plant facilities are modern. Because our only business is bicycle parts, our company's survival and our employees' jobs are solely dependent on the survival of the domestic bicycle and bicycle parts industries.

IMPACT OF IMPORTS ON THE BICYCLE AND BICYCLE PARTS INDUSTRIES

Our industry is seriously threatened by a veritable tidal wave of imports. This deluge of imports, especially from Taiwan, has decimated our industry to the point where today there are many bicycle parts which no U.S. manufacturer produces. In fact, approximately 75% by dollar volume of parts purchased for bicycles are imported.

Our company's own viability has been seriously threatened by these conditions. Wald's employment has dropped from over 400 employees working overtime in 1973-74 to approximately 200.

Our industry and our company have managed to survive this serious threat by strict quality control, inventory management, increased responsiveness to the needs and problems of our customers, and general belt-tightening. Even though these steps have been difficult and often painful, we are confident that we have made ourselves viable in this very hostile environment, absent any significant new adverse developments. Administrative reduction of our duties by half, overnight, would be a death blow to our company and our industry.

THE FOREIGN TRADE ZONE THREAT IS INTERWOVEN WITH THE DUTY SUSPENSIONS HISTORICALLY SUPPORTED BY OUR COMPANY AND OUR INDUSTRY

Our customers, the bicycle manufacturers, have also seen significant market erosion from increased importation of finished bicycles. Bicycle parts manufacturers such as Wald have tried to recognize our customers' market needs by flexible delivery, holding prices of parts steady or even lowering them, and by catering our production to their needs. We have also consistently supported the suspension of duties (which would otherwise be owed under the Tariff Schedules of the United States) on designated bicycle parts, typically, parts for which no U.S. manufacturer exists. Because of our customers' problems, we have supported duty suspension despite the additional barrier which it creates to our attempting to reclaim those parts from the import market through beginning to manufacture those parts again. We therefore support subsection (a) suspending through December 31, 1990 the duty on designated bicycle parts, even though after this subsection is enacted approximately 50% by dollar volume of the parts

imported by U.S. bicycle manufacturers will come into this country duty free. We believe that such suspension meets our customers' legitimate needs yet balances our own needs by not lowering the duty on those parts which are currently made domestically.

However, subsection (a) is morally and logically interwoven with subsection (b) of the bill, continuing until December 31, 1990, the present exclusion of bicycle parts (unless reexported) from the exemption from the customs law otherwise available in a foreign trade zone. The cosponsors of the provision, H.R. 2350, which became section 850 of H.R. 4800 as passed by the House of Representatives last session and thus section 850 of this bill, explicitly recognized the interrelationship of duty suspension and current foreign trade zone treatment when they stated:

> SECTION 1. FINDINGS.
>
> The Congress finds that -
>
> (1) a delicate balance of the interests of the bicycle industry and the bicycle component parts industry has been reached through repeated revision of the Tariff Schedules of the United States so as to allow duty free import of those categories of bicycle component parts which are not manufactured domestically;
>
> (2) this balance, the preservation of which is in the public interest and in the interest of the domestic bicycle industry, would be destroyed by exempting otherwise dutiable bicycle component parts from the customs laws of the United States by granting foreign trade zone status to bicycle manufacturing and assembly plants in the United States; and
>
> (3) the domestic bicycle industry currently is seeking to extend duty suspension on bicycle parts from June 30, 1986, until [December 31, 1990], therefore the balance between that industry and the bicycle component parts industry can only be maintained if the present exclusion of bicycle component parts that are not re-exported from the exemption from the customs laws otherwise available to merchandise in foreign trade zones is also extended from June 30, 1986 until [December 31, 1990].

Moreover, paragraphs (1) and (2) set forth above are virtually identical to the findings announced by the Committee on Ways and Means when it reported favorably section 211(a) of H.R. 3398 in the 98th Congress (codified at 19 U.S.C. § 81c(b)).

We at Wald could not agree more with these Congressional findings. When we testified before the Committee on Ways and Means in the 98th Congress, and consistently since then, we have pointed out the innate unfairness of legislatively providing duty free treatment for 50% of all imported bicycle parts and then administratively halving overnight the duty on the remaining imports through the device of a bicycle manufacturer locating in a foreign trade zone or subzone. This is because most of the imports of bicycle parts enter at a duty rate of 10%, and most bicycles enter at 5.5%. The apparent disparity in these rates was intentionally mandated by Congress because of the practical effect of duty suspension legislation, which, when applied to a completely assembled bicycle, causes the dollar value of the two rates to be virtually identical. Yet, if a bicycle manufacturer locates in a zone or has an existing facility declared a subzone, that bicycle manufacturer can choose to apply the finished bicycle rate to the value of certain imported parts, in effect cutting the remaining bicycle parts duties in half.

BECAUSE CUSTOMS IS COLLECTING DUTIES ON ITEMS FOR WHICH SUSPENSION HAS EXPIRED, QUICK CONGRESSIONAL ACTION IS NEEDED.

As noted above, the duty suspension for bicycle parts and the customs treatment of bicycle parts in foreign trade zones both expired on June 30, 1986. We note that section 869 (a)(4) of H.R. 3 specifically makes section 850 of the bill retroactive to June 30, 1986. We applaud Congress' foresight in such express retroactivity.

Since January 1, 1987, Customs has been collecting duties (but deferring liquidations) on all items, such as bicycle parts, for which duty suspension under Article 9 of the Tariff Schedules has expired. Because of the express retroactivity of section 850, together with deferral of liquidation by Customs, importers of duty suspended items should have relatively few delays and expenses in recovering the duties collected in the interim.

CONCLUSION

The bicycle industry desperately needs duty suspension in order to compete with bicycle imports. The bicycle parts industry recognizes that need and has agreed to support duty suspension for designated bicycle parts despite the additional barrier this creates for parts manufacturers who try to regain any of this lost market. After enactment of duty suspension as proposed in subsection (a) of section 850 of this bill, the duties on imported bicycles are virtually identical to the total of those on imported parts which are assembled in this country with domestically produced parts to manufacture a complete bicycle. Thus, the competitive position of the bicycle manufacturers vis-a-vis imported bicycles will have been improved to the maximum extent possible without actually damaging the present competitive position of domestic parts manufacturers vis-a-vis imported parts and a delicate balance of the needs of these two industries will have been achieved.

Unless subsection (b) of section 850 is also enacted, however, bicycle manufacturers will be able to destroy this delicate balance by locating in a foreign trade zone or having an existing facility declared a sub-zone. Bicycle parts manufacturers cannot survive a 50% tariff reduction overnight, particularly on top of a 50% duty suspension. We are willing to help our customers as much as possible, but they must not then turn around and take away half of the bargain.

We urge you to report favorably section 850 of H.R. 3 as introduced, thereby ensuring that the delicate balance previously achieved by Congress continues, so that the domestic bicycle and bicycle parts industries can continue to produce quality bicycles for the children and adults of America.

EXHIBIT

INDEX

— A —

Axles 30
Axle & Nut Assemblies 31,36
Axle Sets 31,36

— B —

Bars, Handle 18,19,20,21
Baskets 10,11,12
Basket Fittings 13
Bolts, Binder 17
Bolts, Expander 17,36
Bolts, Fork Crown 25
Bolts & Nuts, Assorted 29
Bolts & Nuts, Coaster Brake 28
Bolts & Nuts, Fender 3
Bolts & Nuts, Seat Post 27
Bolts & Nuts, Stand 8
Braces 4
Brackets, Fender Angle 28
Bridge Clips, Fender 28
Bushings, Seat Post 27
Bushings, Stem 17

— C —

Carriers 9
Chain Guards 5
Chain Guard Clamps 5
Coaster Brake Straps 28,36
Cones, Axle 32
Cones, Crank 23
Cones, Head 25
Cone Sets, Crank 22,36
Cranks 22
Crank Sets 22
Crank Fitting Sets 22
Cups, Crank 23
Cups, Head 25

— D —

Display Rack Assortment 36
Dust Caps 29

— F —

Fenders 2,3
Fender Fittings, Lightweight 28,36
Flashlight Holders 29,36
Forks 24
Fork Retainer Clips 24

— H —

Handlebars 18,19,20,21
Head Sets 25,36
Hubs, Front 30

— K —

Kickstands 8

— L —

Lugs, Stem Expander Bolt 17

— N —

Nuts, Axle 33,36
Nuts, Crank Lock 23
Nuts, Head Lock 25

— P —

Pedals 14,15,36
Pedal Bolt Fittings 15

— R —

Repair Tags 29
Retainers, Ball 35,36

— S —

Seat Posts 27
Snap-on Caps 15,36
Splash Guards 3
Sprockets 26
Stands 8
Steel Balls 35
Stems, Handlebar 16

— T —

Training Wheel Sets 6,7
Training Wheel Fittings 7
Training Wheels 7

— W —

Washers, Axle 34,36
Washers, Crank Spacer 23
Washers, Fork Crown 34
Washers, Key 23,25
Washers, Spring Lock 34
Wrenches, Open End 26,36
Wrenches, Spoke 26,36

H.R. 34

To lower for a 2-year period the column 2 duty on certain large offset printing machines.

February 11, 1987

STATEMENT OF HEIDELBERG EASTERN, INC.
IN OPPOSITION TO THE ENACTMENT OF HR 34

My name is Leonard Lehman. I am a partner in the firm of Barnes, Richardson & Colburn, 1819 H Street, N.W., Washington, D.C. I am submitting this material on behalf of Heidelberg Eastern, Inc. ("Heidelberg"), a United States importer of graphic arts equipment, including offset printing presses weighing more than 3500 pounds, into the United States. Heidelberg's principal place of business is located in Glendale, New York.

We wish to state our opposition to the enactment of HR 34, a bill to lower for a 2-year period the Column 2 duty rate on offset printing presses of sheet-fed type weighing 3500 pounds or more, provided for in Item 668.21 of the Tariff Schedules of the United States.

Under present law, the foregoing presses imported from so-called "Column 2" countries, which are not entitled to Most Favored Nation tariff treatment, are subject to a 25 percent ad valorem rate of duty. HR 34 would lower the Column 2 rate to 10 percent, during its period of effectiveness.

Heidelberg is strongly opposed to the enactment of this legislation, for the following reasons:

(a) Heidelberg and other companies presently import offset printing presses classified under Item 668.21 of the Tariff Schedules from Most Favored Nation countries which are our major trading partners. Despite the favorable tariff rate available to Heidelberg and similar importers,

offset printing presses of the same kind, even after payment of duty, enjoy a competitive price advantage when they are imported from Column 2 non-market economy countries. In these circumstances, the proposed reduction in the Column 2 rate of duty would result either in further competitive disadvantages to domestic importers who deal with our Most Favored Nation trading partners, or simply increased profits in the pocket of importers from Communist countries. Furthermore, such potential price advantages must necessarily serve as an inducement to importers to switch their sources of supply to Communist nations from our traditional trading partners.

(b) Historically, we have established very strict rules with which Communist bloc countries must comply, before they are offered the economic benefits that we make available under our Most Favored Nation arrangements. Although HR 34 would not reduce the tariff rate on these printing presses completely to the Column 1 rate, the substantial reduction proposed in this bill is being offered without any strings attached or requirements for other changes by any Communist bloc countries that may supply such machines to the United States. Such a proposal would appear to be inconsistent with national policy.

(c) In the 99th Congress, at the time that a predecessor identical bill (HR 3797) was being considered, a statement was made by the president of Royal Zenith, an importer and the only company that would benefit from its enactment, that "there are no U.S. companies manufacturing offset printing presses of the sheet-fed type weighing 3500 pounds or more." Written Comments

on Certain Tariff and Trade Bills, Volume II, 99th Congress, Second Session, at page 424 (May 1, 1986). In that statement, the author later observes that there is one company claiming to be a domestic producer but he states that "it is our understanding that this company actually imports the product from West Germany to be partially assembled in the United States."

We have been informed by Mr. Kent Martin, president of the Miller Printing Machinery Company in Pittsburgh, Pennsylvania, the company to which the foregoing statement refers, that in point of fact the component parts of these large presses that it imports from West Germany are subjected to substantial machining, as well as component assembly, at the Company's plant, and that the Company employs approximately 180 factory workers, as well as 75 support employees, at its plant in connection with this domestic business activity. The proposed tariff reduction for Column 2 importations that compete directly with Miller's business constitutes a direct threat to an ongoing and viable domestic enterprise and its ability to employ U.S. workers in its activities in the United States. We understand that at least 2 other producers in the United States of like products that would be classified under Item 668.21, if imported, are known to the International Trade Commission.

(d) Although Heidelberg may not be engaged in similar processing of its importations, it is nonetheless an employer of U.S. workers as part of its importing business. There is no reason that justifies the shift of U.S. employment from Heidelberg and others who import from our major trading partners to one importer from Communist bloc countries, which compete with our trading

partners while flouting the standards for human rights behavior and other conditions that we have made a pre-requisite to their qualification for preferential tariff rates.

(e) Attached Table I sets forth the quantities of offset printing presses classifiable under Item 668.21 during the nine months ended September 30, 1986 from source countries. It should be noted that of the total of 1489 importations from all countries in the first nine months of 1986, only nine such machines were identified as having their country of origin in East Germany ("German DC"). Similarly, as shown in Table II, for the full year 1985, only ten of a total of 2409 such machines were identified at the time of importation as originating in East Germany, the only Column 2 country that is a source of such machinery.

It is clear that HR 34, as proposed, would merely induce a shift of source of supply for such machinery from other Column 1 countries, primarily West Germany, to the non-market economy of East Germany, which already is in a position to fix its prices without regard to actual costs and would benefit substantially from reduced duty rates.

Indeed, in view of the very small number of machines that apparently now originate in East Germany, according to U.S. Customs documents, it is difficult to see how the proposed legislation can be construed as anything but an inducement to subsidize the development of East German production, without anegotiated quid pro quo, and at the expense of our West German allies. The result will be not "greater competition among foreign suppliers",

because the alleged competitors are not similarly motivated by profit motives; rather, the result will be a gratuitous preference for East German machines at the expense of the West German market and U.S. employees.

In summary, we urge that this extremely controversial proposal as set forth in HR 34 be rejected as being adverse to actual domestic employment in the United States; as increasing an unfairly competitive advantage that already exists for the few machines that admit at the present to have East Germany as their country of origin; and as conferring a detriment upon our traditional trading partners in favor of a Column 2 country without any of the kinds of quid pro quo that we have traditionally negotiated with Communist nations as a condition to beneficial tariff treatment.

Respectfully submitted,

Leonard Lehman

Leonard Lehman

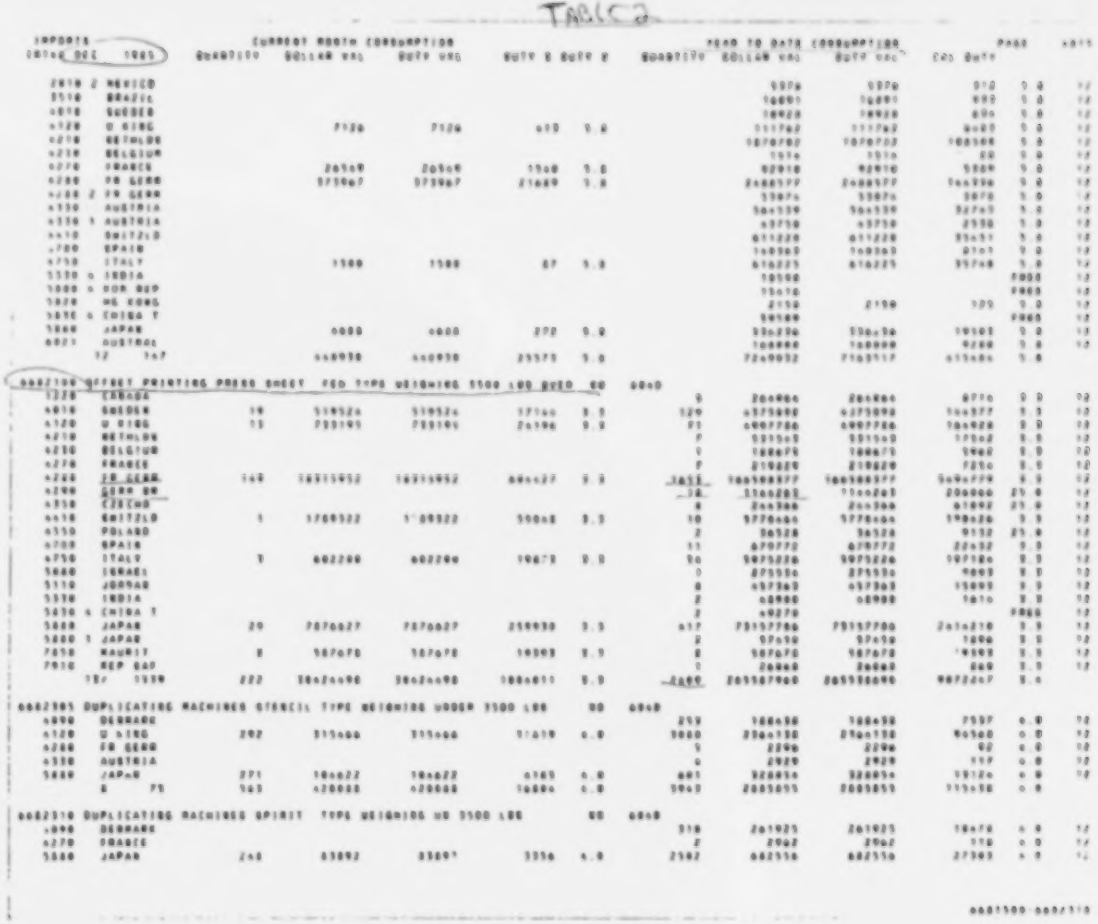
LL/ajd

TABLE 1

IMPORTS — TURKEY DUTY & CONSUMPTION — YEAR TO DATE CONSUMPTION — PAGE 3311

IMPORTS SEP 1986		TURKEY DUTY & CONSUMPTION QUANTITY	DOLLAR VAL	DUTY VAL	DUTY $	DUTY %	YEAR TO DATE CONSUMPTION QUANTITY	DOLLAR VAL	DUTY VAL	CAL DUTY		
4280	FR GERM		568377	568377	22719	3.9		4629583	4629583	181280	3.9	09
4290	GERM DR							78216	78216	7034	25.0	09
4419	SWITZLD		31277227	31277227	43962	3.9		7891568	7891568	309898	3.9	09
4700	SPAIN							1171	1171	46	3.9	09
4710	PORTUGL		12526	12526	489	3.9		63232	63232	1764	3.9	09
4710 A	PORTUGL							6132			FREE	09
4730	ITALY		23939	23939	1032	3.9		538359	538359	21030	3.9	09
5040	LEBANON							1021	1021	40	3.9	09
5080 A	ISRAEL		5755			FREE		5755			FREE	09
5400	KOR REP							6213	6213	247	4.0	09
5400 A	KOR REP							312111			FREE	09
5830	CHINA T							1219	1219	48	3.9	09
5830 A	CHINA T							1869934			FREE	09
5895	JAPAN		43587	43587	1700	3.9		7143688	7143688	278888	3.9	09
7440	YUGOSLAV							113118	113118	449	3.9	09
	377 1512		28866897	28866842	1111577	3.9		78187755	17675981	698512	4.0	
8487500	TEXTILE PRINTING MACHINE						6040					
1220	CANADA		2898	2898	115	5.5		11236	11236	618	5.5	09
4010	SWEDEN							17189	17189	945	5.5	09
4120	U KING							65953	65953	3708	5.6	09
4190	IRELAND		3350	3350	184	5.5		28539	28539	1576	5.5	09
4210	NETHLDS		37027	37027	2037	5.5		5091426	5091928	313239	5.5	09
4270	FRANCE		5492	5492	302	5.5		84337	84337	4639	5.5	09
4280	FR GERM		107968	107968	5937	5.5		803206	803206	44289	5.5	09
4290	GERM DR							13254	13254	5302	40.0	09
4330	AUSTRIA		138702	138702	7628	5.5		1291896	1291896	71832	5.6	09
4419	SWITZLD							583264	583264	32121	5.5	09
4700	SPAIN							96894	96894	5468	5.6	09
4730	ITALY							556726	556726	31488	5.7	09
4840	GREECE							186178	186178	10239	5.5	09
5800 A	KOR REP							15993			FREE	09
5820 A	HG KONG							6488			FREE	09
5830	CHINA T							6888	6888	278	4.0	09
5830 A	CHINA T							67685			FREE	09
5880	JAPAN							32569	32569	1868	5.7	09
6071	AUSTRAL		3121	3121	62	5.5		67149	67149	3693	5.5	09
	15 135		295742	295742	16206	5.5		9682986	9538 08	531599	5.6	
8487100	OFFSET PRINTING PRESS SHEET FED TYPE WEIGHING 3500 LBS OVER					NO	6040					
1220	CANADA						3	74946	74946	2388	3.2	09
4010	SWEDEN	5	508568	508568	16748	2.9	89	4368868	4368868	131876	3.0	09
4090	DENMARK						1	48888	48888	1168	2.9	09
4120	U KING	4	177149	177149	5138	2.9	62	4647727	4647727	143367	3.1	09
4120 Z	U KING						5	567883	567883	18878	3.3	09
4210	NETHLDS						5	252688	252688	7617	3.0	09
4230	BELGIUM	1	234556	234556	6802	2.9	5	1179831	1179831	35325	3.0	09
4270	FRANCE	1	60646	60646	1759	2.9	1	60646	60646	1759	2.9	09
4280	FR GERM	78	13002868	13002868	377883	2.9	859	126960155	126960155	3776962	3.0	09
4290	GERM DR						9	1318218	1318218	329553	25.0	09
4419	SWITZLD						1	68646	68646	1991	2.9	09
4700	SPAIN						6	421502	421502	12772	3.0	09
4710	PORTUGL						31	295497	295497	8569	2.9	09
4730	ITALY						54	3670611	3670611	110293	3.0	09
5830	CHINA T						1	28000	28000	812	2.9	09
5880	JAPAN	75	6680183	6680182	193725	2.9	377	75648718	75698718	2263085	3.0	09
	87 948	104	20683950	20683950	599255	2.9	1689	2196:3840	2196338A0	6847567	3.1	
8487305	DUPLICATING MACHINES STENCIL TYPE WEIGHING UNDER 3100 LBS					NO	6040					

TABLE 2



H.R. 35

To provide for temporary duty-free treatment for cyclosporine.
No statements submitted.

H.R. 36

To continue the existing temporary duty-free treatment of certain coarse wools until the close of December 31, 1992.
No statements submitted.

H.R. 305

To provide permanent duty-free entry for certain mixtures of hot red peppers and salt.
No statements submitted.

H.R. 346

Relating to the tariff treatment of fresh cantaloupes imported between January 1 and May 15 of any year.

TEL. 202-296-4484
FAX 202-293-3060

CABLE JAMERICAN
TELEX 292099

MIKE MASAOKA ASSOCIATES, INC.
SUITE 500, THE FARRAGUT BUILDING
900 SEVENTEENTH STREET, NORTHWEST
WASHINGTON, D. C. 20006

T. ALBERT YAMADA
PRESIDENT

March 6, 1987

Mr. Joseph Dowley
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D. C. 20515

Subject: Statement in Support of H.R. 346.
Duty on Certain Imported Cantaloupes

Dear Mr. Dowley:

I am writing on behalf of the West Mexico Vegetable Distributors Association ("Association") of Nogales, Arizona, to support and endorse H.R. 346, a bill introduced by Rep. Kika de la Garza of Texas to suspend Customs duty on fresh cantaloupes imported during winter months when there is virtually no domestic production of cantaloupes (late December to mid-May).

(A similar bill has been introduced in the Senate by Sen. Lloyd Bentsen of Texas, Chairman of the Senate Finance Committee. A provision identical to the current House bill was incorporated into last year's omnibus trade legislation--H.R. 4800--and is also included in the comprehensive trade measure--H.R. 3--now pending before the Ways and Means Committee.)

The Association supports the legislation sponsored by Rep. de la Garza for the following reasons:

o There is no significant domestic production of cantaloupes in the winter months. (See attached chart from The Packer, a fresh produce industry publication.)

o Under a temporary tariff provision which expired in December 1985, cantaloupe imports during the three previous winter seasons were entered duty-free. There was no evidence that the duty-free entry of imported cantaloupes adversely affected American growers. (During the past winter season, cantaloupes were imported under a special arrangement in which the Customs Service agreed to hold the tariff in escrow pending the enactment of the duty suspension measure (H.R. 4800). Although the House passed the measure, the Senate did not. During this season, the Customs Service is collecting the tariff but has made special refund arrangements pending the outcome of this year's legislative action.)

o When cantaloupes imported during the winter season are entered duty-free, consumers benefit from lower prices. American consumers should not put up with a tariff expense when there are no American-grown cantaloupes on the market.

o Continuing the availability of cantaloupes throughout the year in grocery stores will help to create and sustain a healthy market for cantaloupes. American farmers will benefit from a greater awareness and preference for cantaloupes among consumers if cantaloupes are available throughout the year. Consumers tend to "forget" foods that are not readily available throughout the year. It was for the purpose of establishing a "continuing market" that the Congress in past years allowed duty-free entry of cantaloupes in the winter months.

o The duty suspension is applicable only to those winter months when almost no domestically grown cantaloupes are available (December to May). The duty suspension is intended to apply only to cantaloupes.

* * * * *

The Association urges the Ways and Means Committee to take action on H.R. 346 as quickly as possible because the duty-free entry of cantaloupes during the past three years has created an expectation of continued duty-free treatment among consumers as well as the produce industry. The controversy-free duty suspension during the past years has established certain business practices and patterns that are being disrupted by the uncertainty of the tariff status of imported cantaloupes. By continuing the duty exemption, the Committee can help greatly to restore confidence and order in the pricing and marketing of cantaloupes during the winter months.

The Association also urges the Committee to note the importance of agricultural trade to Mexico. Mexico earns badly needed dollars through the exportation of winter cantaloupes which mostly cannot be grown in the cold climates of the United States. Cantaloupe exports help to maintain a high employment level among Mexican farmers who are able to stay and work on their family property.

For the reasons cited, the Association supports enactment of H.R. 346, a bill that will benefit American consumers and will not injure or otherwise harm American growers.

West Mexico Vegetable Distributors Association of Nogales, Arizona, has approximately 70 members which are American businesses involved in importing, selling and distributing fresh winter vegetables and fruits that are grown in the states of Sinaloa and Sonora on the west coast of Mexico. The vegetables and fruits are carried by truck from Sinaloa and Sonora to Nogales, Arizona, where the members of the Association use American-operated trucks to transport the produce to virtually every state in the Union and Canada. The produce-importing season extends from December through May. Association members supply about half of the winter vegetables, such as tomatoes, cucumbers, eggplant, squash, and green peppers, that are consumed in the United States and Canada during the winter season.

Mike Masaoka Associates, Inc., of which I am the President, is retained by the Association to act as its Washington representative. Mike Masaoka Associates, Inc., is a Washington, D.C. corporation involved in general government affairs work, public relations, and business liaison. Its principals are registered as lobbyists in accordance with federal regulations.

Very truly yours,

MIKE MASAOKA ASSOCIATES, INC.

T. Albert Yamada

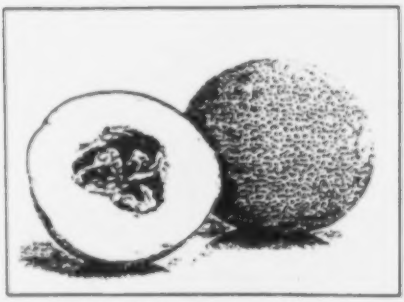
TAY:mt
Enclosures

cc: Senator Jim McCain
Senator Dennis DeConcini
Senator Lloyd Bentsen
Representative Kika de la Garza
Representative Morris Udall
Representative Jim Kolbe
Carl Rose, Senate Agriculture Committee
James Rotherham, Agriculture Committee
Kelly Larey, President, WMVDA
George Uribe, Executive Vice President, WMVDA

CANTALOUPE

FRESH FACTS

IDEAL TEMPERATURE: 40 degrees
RELATIVE HUMIDITY: 85 to 90 percent
MAIN VARIETIES: Top Mark, PMR 45, PMR 450 and Magnum
AVAILABILITY: Year-round
GRADES: U.S. Fancy, U.S. No. 1, U.S. Commercial and U.S. No. 2
CALORIE VALUE: 60 per 185 grams



VARIETIES

California provides the bulk of cantaloupes produced in the United States, with Arizona and Texas also producing considerable amounts. Supplies from these three states, combined with supplies from 21 other states and Mexico, mean the consumer is able to find cantaloupe in the market year round. June, July and August are the peak months.

Resistance to disease and productivity are important aspects among the different varieties of cantaloupes. It is extremely important that melons have a firm flesh which will not soften or deteriorate rapidly after harvest, to make transportation feasible.

Almost all of the cantaloupes grown for commercial purposes in California are of the Hale's Best group of varieties. There are several different strains on the market, each with a few distinct characteristics, but generally of the same type.

The different varieties include Top Mark, PMR 45, PMR 450, and Magnum.

Cantaloupes differ from other muskmelons in shape and size. Some have flesh of a different color, including some with un-netted rinds, such as casabas and honeydews.

CARE

Cantaloupes are highly perishable and the shortest possible storage time is recommended. A temperature of 40 to 50 degrees Fahrenheit with relative humidity between 85 and 90 percent provides the best environment. Even under these conditions, a cantaloupe will deteriorate from field-fresh to fair within 12 to 16 days.

Precooling upon harvest is essential to prevent self-heating during transit and marketing, and loss of quality and shelf-life. Cantaloupes have little or no reserve carbohydrates to convert to sugars, necessitating proper handling procedures to maintain what is available. These procedures include immediate precooling, maintaining optimum storage conditions at all times, minimum time from harvest to retail, and careful handling at all levels.

Cantaloupes should be handled carefully to avoid damage. Bruising, scruffing of the netting, puncturing or cracking can cause more rapid deterioration through moisture loss or decay.

Only a mature melon will provide the sweetness, texture, flavor and juiciness that characterize cantaloupes at their finest. The melon must mature on the vine before it is harvested. It does not increase in sugar content after picking, although it will soften and change types of sugars.

A cantaloupe that is mature will be well netted or webbed with a smoothly rounded, depressed scar at the tip end. If this tip end is rough with portions of the stem remaining, the melon was not ready to be harvested.

Cantaloupes usually need a few days to soften. This period serves to soften the meat and make it juicier, as they are shipped in a firm state to avoid damage. A few days at room temperature in the home is adequate as a rule. When ready to

CANTALOUPE: VOLUME, AVAILABILITY AND SHIPPING SEASONS*

VOLUME (1,000 cwt.)

	JAN	FEB	MAR	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	1985	3-yr. Avg.
ARIZONA													1,450	1,253
CALIFORNIA													11,455	10,089
COLORADO													—	—
GEORGIA													1,125†	—
INDIANA													—	—
MARYLAND													250	224
MICHIGAN													—	—
SOUTH CAROLINA													96	87
TEXAS													3,380	2,983
% of total		1	2	4	7	19	22	22	14	6	3			
IMPORTS														
DOMINICAN REP													3	25
HONDURAS													06	06
MEXICO													2.0	2.0

KEY* MOST ACTIVE PERIOD; NEW CROP BEGINS; SHIPPING DECREASES; NO SHIPPING. † 1984 Prel.

H.R. 350

To provide equitable treatment for certain fresh vegetables produced in the United States.

No statements submitted.

H.R. 513

To offset the competitive advantage which foreign producers have as a result of not having to meet environmental, health, welfare, and safety requirements of the kinds imposed on United States coal producers, and for other purposes.

No statements submitted.

H.R. 583

To continue until January 1, 1991, the present exclusion of bicycle component parts which are not reexported from the exemption from the customs laws otherwise available to merchandise in foreign trade zones.

No statements submitted.

H.R. 590

To extend until January 1, 1992, the existing suspension of duty on stuffed dolls, certain toy figures, and the skins thereof.

and

H.R. 928

To suspend temporarily the duty on certain stuffed or filled toy figures until January 1, 1993.

Briarcliffe Marketing, Inc.
260 BALTIMORE PIKE - CHADDS FORD, PENNSYLVANIA 19317 (215) 388-1714

March 6, 1987

Joseph K. Dowley, Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Longworth House Office Bldg. - Room 1102
Washington, D.C. 20515

RE: H.R.590

Dear Mr. Dowley:

May I, and my staff, urge you and the members of the House of Representatives to act expeditiously to pass H.R. 590. Our business is concerned with soft-sculpture dolls manufactured in china. The recent loss of tax free status on these items has caused us significant problems. It is difficult to know how to price our line with the status in limbo.

Before this situation becomes more difficult, let's get the extension of H.R. 590 passed and permit us to continue our business without unnecessary difficulties.

Sincerely yours,

Joan M. Fyk

Joan M. Fyk
Vice President

JMF:hlg

Staff signatures:

Romano Fyk
W. L. Lyon
William L. Boswell
Sophie T. Beck
Bradley Thompson
John Butler
Pat Cassell
Lin Manelski

Acme Premium Supply Corp.
Importers Manufacturers Distributors
4100 Forest Park St. Louis, Missouri 63108-2899
314-551-8880 Telex 447251 APSCO FAX 314-551-2106

ACME

March 19, 1987

Mr. Joseph K. Dowley, Chief Counsel
Committee on Ways and Means
U.S. House of Representatives - Rm. 1102
Longworth House Office Bldg.
Washington, DC 20515

Dear Mr. Dowley:

As an importer of stuffed toys and toy skins which require additional processing and therefore provide jobs for 300 to 350 people, I would like to express my support for extending and/or suspension of import duty on stuffed toys and toy skins.

The increased duty rate endangers the jobs of many of my employees and the workers of my contract factories.

Many of the people depending on these imported toy parts for their livelihood are handicapped and/or unskilled labor who would suffer greatly from a loss of employment due to the new duty implementation.

The duty-free status of these toy parts cannot damage U.S. domestic manufacturers simply because no one is producing these items in the United States. The single effect of this import duty would be to harm our business and those factory workers who support themselves through the processing of the toy parts.

I fully support H.R. 590 and H.R 928 for extension of duty free status. I certainly hope you will concur and give your full support to H.R 590 and H.R 928.

Respectfully,

Robert V. Dawson
President
ACME PREMIUM SUPPLY CORP.

RVD:vmd

Allentown Toy Mfg.. Co.
(Hertz Associates, Inc.)

725 NORTH 10TH STREET ALLENTOWN, PA. 18102

STUFFED TOYS
NOVELTIES
IMPORTS

215-434-6217

March 3, 1987

Joseph K Dowely, Chief Consul
Committee on Ways and Means
U.S. House of Representatives
Room 1102
Longworth House Office Building
Washington, DC 20515

Dear Mr. Dowely:

We support the following two Bills very strongly as they have a great impact on our business. We hope that both of these Bills will be passed quickly by both the House and the Senate.

H.R. Bill 590
Subject: ~~to~~ extend until January 1, 1992 the existing suspension of duty on stuffed dolls, certain toy figures and the skins thereof introduced by Rep. C. Schneider of Rhode Island.

H.R. Bill 928
Subject: to suspend duty on stuffed or filled toy figures until January 1, 1993 introduced by Rep. W. D. Gradison of Ohio.

Sincerely yours,

Nancy Hertz Kirschen

Nancy Hertz Kirschen
Vice President

NHK/cb

COLECO
INDUSTRIES, INC.

COLECO CORPORATE CENTER

March 3, 1987

U.S. House of Representatives
Longworth House Office Building
Room 1102
Washington, D.C. 20515

Attn: Joseph K. Dowley
Chief Counsel, Committee
On Ways & Means

Re: Statement in Support of
H.R. 590/H.R. 928

Dear Mr. Dowley:

Coleco submits these comments in support of the captioned bills. H.R. 590 was introduced to extend through 1991 the suspension of duty on stuffed dolls (Item 737.23, TSUS) and other products. H.R. 928 proposes to suspend through 1992 duty on certain stuffed toy animate figures (Item 737.30 and in part, Item 737.40, TSUS). Both bills are, with minor modification, identical to legislation which was introduced in the 99th Congress and which passed without objection, twice, in the House of Representatives. Unfortunately, Congress adjourned without the enactment of any miscellaneous tariff bills.

As an importer and distributor of toy stuffed dolls and animate figures, the bills are of vital interest to our Company. We rely on both foreign and domestic sources for production, turning to overseas suppliers where rising costs and competitive factors warrant such selection. In the past, duty suspensions applicable to such foreign sourcing has served to strengthen Coleco's economic position and has also enabled it to pass cost savings along to the consumer.

999 Quaker Lane South, West Hartford, CT 06110 (203) 725-6000

In addition to meritorious general considerations which have been discussed on previous occasions, special circumstances warrant prompt Congressional consideration at this time. The continued delays in passage of legislation in renewal of the stuffed doll duty suspension (retroactive to the date of its expiration at the end of 1985) have compelled us to conduct our business affairs with considerable uncertainty and has made the tasks of merchandise pricing and cost planning difficult ones.

Adding to these pressures has been the recent decision by U.S. Customs to begin collecting duties on current shipments at the normal column one rate of duty. Of still greater potential detriment to Coleco is threatened action by United States Customs to liquidate entries made in 1986 with applicable column 1 duties. This would result in a lump sum assessment to Coleco that would impact upon the Company's cash position.

In sum, while the proposed legislation is of vital importance to us and is of a meritorious and non-controversial nature, its passage has been long delayed, based upon factors unrelated to the merits of these bills. Continued delay threatens to place a financial burden on the Company and, for these reasons, prompt passage of the bills is urged.

Respectfully submitted,

COLECO INDUSTRIES, INC.

By: Michael S. Schwefel

Michael S. Schwefel
Senior Vice President

March 20, 1987

Joseph K. Dowley
Chief Counsel
Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Dowley:

This statement is submitted on behalf of R. Dakin & Company in response to the request by the Subcommittee on Trade for written testimony from interested parties on certain miscellaneous tariff and trade bills. We regret that we just became aware of the invitation to provide testimony and respectfully request that this statement receive consideration despite being presented after the March 6 deadline.

R. Dakin & Company is an international wholesaler of toys, dolls and giftware based in San Francisco with sales in excess of $100 million. We have approximately 300 direct employees in the U.S. and an additional 200 independent sales representatives.

R. Dakin & Company is firmly committed to the maintenance of an open international trading system. While it may be appropriate in certain specific instances to respond to foreign unfair trade practices and restricted market access for American products, an overall protectionist attitude will do harm, not good.

The root of our trade imbalance problem lies with inadequate productivity growth, misaligned exchange rates, and U.S. fiscal policies. A U.S. corporate advantage cannot be created by a wholesale imposition of trade barriers. That can best be accomplished by the creation of a stable macroeconomic environment, both at home and abroad, but especially at home, which encourages efficiency, growth and investment.

Furthermore, just as the trade imbalance problem developed over a period of years, solutions will take some time to manifest themselves and we should not be impatient.

Having stated our general position we now comment on three specific issues before the House of Representatives.

H.R. 590 would extend the duty-free treatment previously accorded under items 912.30, 912.34, and 912.36, of the Appendix to the Tariff Schedules of the United States (TSUS) through December 31, 1991, and retroactively to December 31, 1985, the expiration date of these provisions. Items 912.30, 912.34, and 912.36, TSUS, provide duty-free entry from beneficiary developing countries of "stuffed dolls (with or without clothing) and doll skins for stuffed dolls," "stuffed or filled toy figures of inanimate objects not having a spring mechanism," and "skins for stuffed toy figures of animate and inanimate objects," respectively. This duty suspension was first enacted in 1983 and has proved to be of great benefit to the American toy industry. The duty-free status of these items is non-controversial and, in fact, was approved in HR 5686 of the 99th Congress but the session ended before it could be approved by the Senate.

H.R. 928* would temporarily suspend the duty on stuffed or filled toy figures of animate objects (except dolls) not having a spring mechanism, currently classified in item 737.30, TSUS, until December 31, 1992. R. Dakin & Company believes that enactment of the two bills in question would greatly benefit the U.S. toy industry and the U.S. economy. Duty-free treatment for the toy items covered by H.R. 590 and H.R. 928 would allow U.S. toy companies, including R. Dakin & Company, to preserve and expand domestic activities and employment while lowering the costs of stuffed and filled dolls and toy figures to the American consumer. In addition, because virtually no domestic companies competitively produce stuffed dolls, toy figures and skins therefore, the duty-free importation of these items causes absolutely no harm to any U.S. manufacturer.

The final specific issue on which we would like to comment is the so-called Scofflaw Provision contained in Section 175 of H.R.3. This provision would prohibit any person from importing for a 3-year period if during any 7-year period such person was either convicted of, or assessed a civil penalty for three separate violations of one or more customs laws involving gross negligence, fraud, or criminal culpability. Orders issued under this provision with respect to multiple customs law offenders which are firms, corporations, or other legal entities apply to all officers and principals of the entity, as well as to any employee or agent of the entity who was directly involved in the violation concerned. Not only is the "person" prohibited from importing, but the "person" is prohibited from engaging "any other person for the purpose of introducing on behalf of the multiple customs law offender, foreign goods" into the United States.

We believe that this provision is basically inequitable and unjust and that it ignores the inevitability of human error in dealing with complex and often imprecise administrative procedures. Large corporations, such as R. Dakin & Company, whose employees or agent brokers process thousands of entries every year would be particularly vulnerable. We would be subject to the same threshold of collective and cumulative guilt as an importer who has one employee and makes ten entries in a year. As a result, we and other volume importers would be forced to contest every administrative penalty proceeding in the courts to avoid the crushing sanctions flowing from any "final determination" of gross negligence. The possibility that totally innocent actions by uninformed or distracted low-level employees could result in a company being cut off from its overseas suppliers of hundreds of products, most of which are not even available domestically at any price, at an incalculable cost to the company's stockholders, employees, and to the consuming public graphically illustrates the impropriety of this provision.

*We understand that, through inadvertence, H.R. 928 as introduced omits the size limitations incorporated in the last year's bills (H.R. 2335, S. 2399, and Section 845 of H.R. 4800) and the current omnibus bill (Section 845 of H.R. 3), although it was only intended to add "filled" toy figures to the version previously passed by the House of Representatives. Accordingly, we understand that steps will be taken to correct this oversight, such that duty-free treatment be accorded to "stuffed or filled toy figures of animate objects (except dolls) not having a spring mechanism and not exceeding 25 inches in either length, width, or height." It is our belief that expanding the scope of the duty suspension to include "filled" toy figures will have no adverse impact on any domestic interests.

The existing criminal and civil laws are more than adequate to deal with true criminal activity and civil misfeasance and malfeasance. This proposal is nothing but very thinly disguised in terrorem harassment of the importing community and ought to be rejected out-of-hand by the House of Representatives as unworthy of its serious condition.

****

R. Dakin & Company welcomes the opportunity to state its position and makes available the undersigned to answer any questions you might have or to provide further input.

Sincerely,

Victor R. Colunga
Director of Finance
and Administration

VRC/ge
cc: Tom Lantos

STATEMENT OF HASBRO, INC., SUBMITTED BY STEVEN L. RODYN, ASSOCIATE VICE PRESIDENT, INTERNATIONAL OPERATIONS

Statement in favor of enactment of H.R. 590

We are writing in support of HR-590 introduced into the House by Congresswoman Schneider and Congressman Gradison to suspend, temporarily, the duty on stuffed dolls, certain toy figures and skins thereof until January 1, 1992.

Hasbro, Inc. is based in Pawtucket, Rhode Island and is the largest manufacturer of toys and games in the world, with a domestic work force of approximately 6,000 people. Like other major U.S. toy companies, we import part of our product line from the Far East which has contributed significantly to our growth over the past few years.

The American toy industry has evolved over the years integrating U.S. manufacturing with the importation of components and finished goods from low cost labor countries. These imports compliment our domestic operations, and in most instances, have provided U.S. toy companies with the additional resources to expand their product ranges and domestic work force. These stuffed dolls are not and cannot be produced in the United States as they are highly labor intensive, however, many jobs here in America depend on our ability to import them.

It is important to be aware of the fact there are virtually no domestic manufacturers of stuffed dolls here in the U.S. as they are difficult to produce at a cost the American consumer is willing to pay for the perceived value of the product.

In the U.S. industrial outlook, prepared by the Department of Commerce, Patrick Hughes wrote an article which supports our position.

"Legislation suspending duty on stuffed dolls, stuffed toy animals and outer coverings was introduced in Congress in 1985. This legislation would benefit both U.S. consumers and U.S. producers with off shore plants. The loss of GSP status has not produced a significant decline in doll or toy imports from Asian countries nor has it shifted production from other parts of the world."

Support of this piece of legislation will allow the U.S. toy industry to increase and expand the stuffed doll categories affected by HR-590 which in turn will help us to continue to maintain and expand our direct and support manpower means. Failure to enact this bill would result in a permanent 12% duty rate from 1987 on. We cannot emphasize enough how important this bill is to Hasbro, the entire toy industry and to the consumer. We have been in close contact with other toy manufacturers and with the Toy Manufacturers of America, Inc., and have at this point in time, encountered little or no opposition in our efforts to support the enactment of this bill.

We sincerely appreciate the time and effort taken to review our statement and respectfully request your support for the enactment of bill HR-590.

Respectfully submitted by:

Steven L. Rodyn
Associate Vice President
International Operations

On behalf of: Hasbro, Inc.
1027 Newport Avenue
Pawtucket, RI 02862
(401) 727-5000

STATEMENT IN FAVOR OF THE ENACTMENT OF BILL HR-928

We are writing in support of HR-928 introduced into the House by Congresswoman Schneider and Congressman Gradison to suspend, temporarily, the duty on stuffed toy figures until January 1, 1992.

Hasbro, Inc. is based in Pawtucket, Rhode Island and is the largest manufacturer of toys and games in the world, with a domestic work force of approximately 6,000 people. Like other major U.S. toy companies, we import part of our product line from the Far East which has contributed significantly to our growth over the past few years.

The American toy industry has evolved over the years integrating U.S. manufacturing with the importation of components and finished goods from low cost labor countries. These imports compliment our domestic operations, and in most instances, have provided U.S. toy companies with the additional resources to expand their product ranges and domestic work force. These stuffed toy figures are not and cannot be produced in the United States as they are highly labor intensive, however, many jobs here in America depend on our ability to import them.

It is important to be aware of the fact there are virtually no domestic manufacturers of stuffed animals here in the U.S. as they are difficult to produce at a cost the American consumer is willing to pay for the perceived value of the
product.

In the U.S. industrial outlook, prepared by the Department of Commerce, Patrick Hughes wrote an article which supports our position.

"Legislation suspending duty on stuffed dolls, stuffed toy animals and outer coverings was introduced in Congress in 1985. This legislation would benefit both U.S. consumers and U.S. producers with off shore plants. The loss of GSP status has not produced a significant decline in doll or toy imports from Asian countries nor has it shifted production from other parts of the world."

Support of this piece of legislation will allow the U.S. toy industry to increase and expand the stuffed animal categories affected by HR-928 which in turn will help us to continue to maintain and expand our direct and support manpower means. Failure to enact this bill would result in a permanent 5.5% duty rate from 1987 on. We cannot emphasize enough how important this bill is to Hasbro, the entire toy industry and to the consumer. We have been in close contact with other toy manufacturers and with the Toy Manufacturers of America, Inc., and have at this point in time, encountered little or no opposition in our efforts to support the enactment of this bill.

We sincerely appreciate the time and effort taken to review our statement and respectfully request your support for the enactment of bill HR-928.

Respectfully submitted by:

Steven L. Rodyn
Associate Vice President
International Operations

On behalf of: Hasbro, Inc.
1027 Newport Avenue
Pawtucket, RI 02862
(401) 727-5000

•Kenner Products
KENNER PARKER TOYS INC

March 4, 1987

Joseph K. Dowley
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102
Longworth House Office Building
Washington, DC 20513

Dear Mr. Dowley:

Kenner Products wishes to inform you of its support for two duty suspension bills now pending before the Subcommittee on Trade. H.R. 590 provides a suspension of duties on stuffed dolls (737.23/912.30), skins for stuffed dolls (737.26/912.30), stuffed or filled toy figures of inanimate objects not having a spring mechanism (737.47/912.34), and skins for stuffed toy figures of animate and inanimate objects (737.51/912.36) beginning January 1, 1986 and running through December 31, 1992. This measure will extend a duty suspension provision enacted by Congress in 1982 (PL 97-446) which expired at the end of 1985. The other bill, H.R. 928 suspends duties on imported stuffed and filled animals (TSUS 727.30 and 737.40) for the same five-year period, through December 31, 1992.

This legislation is important to the domestic toy industry and has widespread support among U.S. toy manufacturers. As you are aware, toy manufacturing by U.S. companies is largely done overseas because of the low-skilled, labor-intensive nature of the technology. Our domestic employment at Kenner is made possible by our ability to import reasonably priced toys and parts that complement our U.S. operations. Kenner's U.S. employees are primarily engaged in assembly, packaging, shipping, marketing, sales and administration and most other major American toy companies do business in a similar manner.

Given the structure of the industry, imports help support our domestic employment. Tariffs do not protect U.S. workers because there are virtually no production jobs remaining in this line of business in the United States. As a result, the only measurable effect of import duties on stuffed dolls and animals is to raise prices to the American consumer.

1014 VINE STREET, CINCINNATI, OHIO 45202 • TELEPHONE (513) 579-4000 • TELEX 214-273 • CABLE ADDRESS: KENNER CIN. • RAPIFAX (513) 579-4704

In anticipation of questions by the subcommittee members or staff, I would like to point out that while Kenner does import many of its toys from GSP countries, we continue to find it necessary to seek a suspension of duties. This is primarily because several of our best suppliers of quality stuffed toys have exceeded their GSP "competitive need limits" and are no longer eligible for duty-free treatment on those items. The effect of this, in the absence of a duty suspension, will be to raise the cost of our products to the buyer, not to divert stuffed toy production to lesser developed eligible countries.

The reasons are simple, Mr. Dowley. Our decision to do business in any particular country is based on a combination of factors including quality of product, reliability of service, cost, political stability and access to transportation routes. The cost differential between duty-free and non-duty-free suppliers is not significant enough to overcome the quality and reliability advantages enjoyed by our primary suppliers in the case of stuffed animals and dolls.

Furthermore, in anticipation of another question that has arisen in the past, I would point out that granting duty suspensions for stuffed toys is not at all likely to yield negotiating positions to the United States' trading partners, because the vast majority of production is now offshore and will remain there whether duties are imposed or not.

The only result of maintaining tariffs on stuffed dolls and animals, as I have illustrated, will be to increase the cost of toys to our consumers, your constituents. There is no significant domestic employment being protected by maintaining these trade barriers.

Therefore, Mr. Chairman, Kenner urges your support of H.R. 590 and H.R. 928. Please let me know if we can provide you with any further information that would assist in your deliberations on this matter.

I am enclosing for your review a background paper supporting our position. This is primarily factual material about legislative history, toy industry manufacturing practices, and trends in domestic U.S. toy production and foreign toy imports.

Thank you for your consideration.

Sincerely,

Gary Kleven
Senior Vice President
Finance and Controller

cmj

I. LEGISLATIVE HISTORY

1. Stuffed Dolls

The most-favored-nation (MFN) rate of duty on stuffed dolls was suspended through December 31, 1985. Failure to extend the duty suspension legislation resulted in the imposition of a 12.0 percent ad valorem duty thereafter for stuffed dolls from Hong Kong, and non-GSP-eligible countries.

Item 737.23 (stuffed dolls) was granted GSP treatment on March 31, 1982 as a result of a petition filed by an ad hoc group of U.S. producers, the Government of Guatamala and the Government of Haiti.

Taiwan was excluded from eligibility at the time the item was first added pursuant to the President's discretionary authority, but was granted a waiver in this category effective July 1, 1987.

2. Stuffed Animals

It is anticipated that Korea will continue to exceed the competitive need limits during the next few years for item 737.30 (stuffed animals). In the absence of GSP treatment, the duty on this item would be 5.5 percent ad valorem, effective January 1, 1987. The duty on "filled" animals (item 737.40) is 7 percent.

Korea lost GSP eligibility for 737.30 on March 1, 1978. This item was given a formula cut from a base rate of 9.8 percent during the Tokyo Round of Multilateral Trade Negotiations (MTN).

II. DESCRIPTION OF PRODUCT

1. Stuffed Dolls

The products at issue are stuffed dolls. This category includes a broad range of characters from the traditional Raggedy Ann and Andy dolls to the latest personalities including Rainbow Brite and the Cabbage Patch Kids.

The process of manufacturing stuffed dolls and skins for stuffed dolls is highly labor intensive and does not involve a great deal of technical equipment. The following is a brief description of how Kenner manufactures stuffed toys.

The process begins with rolls of material being cut into appropriate shapes using a cutting machine. The material is spread at the base of the machine, and a die (which is similar to a large metal cookie cutter with a sharp bottom edge) is placed on the material. A heavy press is released onto the die, which pushes the die through the cloth. In some cases, the material is cut by knife. The cut pieces of material are then passed on to rows of workers who sew the pieces together using industrial sewing machines. When the entire doll has been assembled in this manner, stuffing is blown or hand-stuffed into the skin. The workers then sew up the rear seam by hand. In some stuffing operations, unstuffed "skins" are shipped to the United States where the final stuffing and sewing operations are completed. This may be cost effective if the doll is large and would be expensive to ship

stuffed.

Thus, the only types of equipment necessary to make stuffed dolls are cutting machines, sewing machines, a stuffing machine and miscellaneous quality control equipment. Decorating the doll may require some additional equipment. In general, the manufacturing costs of products such as stuffed dolls are largely determined by the cost of raw material and labor. For this reason, most producers of large quantities of this type of product have attempted to manufacture in developing countries where labor costs are much less than those in the United States.

2. Stuffed Animals

TSUS items 737.30 and 737.40 include stuffed and filled toy figures of animate objects, except dolls, not having a spring mechanism, valued over 10 cents per inch of height. Since most of the articles entering under this item are stuffed animals, the entire 5-digit item is hereinafter referred to as "stuffed animals," although for customs purposes the term "animate objects" also includes human or humanoid forms that are not animals. (Notwithstanding the abbreviated product description used in this statement, the bill refers to the entire 5-digit categories and is not limited to stuffed animals.) This category specifically excludes figures that are predominantly nonterrestrial or extraterrestrial, robots and inanimate objects which incorporate animate features such as arms or legs.

Stuffed animals are often included in the category referred to as "plush" in the toy industry. Plush generally refers to the texture of the fabric of which the "skin" is constructed. Plush

fabric can simulate the fur of a stuffed animal, but also can provide a cuddly skin to a stuffed doll.

The manufacturing process for Kenner's stuffed animal production is similar to that for its stuffed doll production. The process is labor intensive and does not rely on a significant amount of technical equipment.

Kenner's leading products under TSUS item 737.30 are "Fluppy Dogs." The "Fluppy Dogs" are a collection of stuffed dogs in different colors with different personalities and characteristics.

Kenner's leading filled product under TSUS 737.40 is "Furrever Friends," which are a collection of animals filled with pellets, which have long detachable and interchangeable tails.

Stuffed animals can run the full range of quality from carnival prizes, which are generally of simple design and cheap construction, to expensive novelty stuffed animals. Generally, carnival toys are not considered to compete with the stuffed toys sold in stores because of their cheap quality. The higher end of the market is often devoted to unique designs or oversized stuffed animals, which may be produced in the United States. These toys are often expensive collectors items.

III. THE U.S. MARKET

The U.S. toy market for "traditional" toys has performed well recently, with consumption increasing steadily over the past several years. A number of factors have contributed to a significant increase in demand for dolls and stuffed animals in the United States. These include: 1) the growing number of children

under 10 years old resulting from the current baby boom; 2) the increasing number and percentages of first births; 3) the greater number of dual-income households; 4) the general economic recovery; 5) the greater availability of toys at retail; and 6) the increased amount of advertising and programming specials, which help to create the demand for these products. Other factors influencing sales are the design of the toy, its play value, the quality of the product, its durability, the popularity of the particular toy; whether the toy is supported by licensing, the price of the toy and its perceived value.

These factors have also contributed to shifts in the types of toys sought by consumers. Many parents are now requiring that the toys they buy for their children have a high educational value. Consumers are also demanding products that are safe and provide a good value for the money spent.

Licensed characters have become an integral part of this industry. Licensing can cause increased sales of a product because of the recognition factor of the character associated with the licensed product. Licensed products account for an estimated one-half of the toy industry's total sales. Kenner licenses the "Fluppy Dog" trademark from Walt Disney Productions.

The price of an item in the U.S. toy market is a significant factor in determining sales volume. Toy prices have shown little or no increase over the past year, staying consistently below the average for all consumer goods. The competition in the U.S. toy industry is evidenced by the ratio of a toy manufacturer's product cost to its retail price (approximately 1 to 3.5). Considerably

lower ratios are found in other countries which do not include mass merchandising organizations in the distribution scheme, e.g., England, where that ratio is approximately 1 to 6. It has been acknowledged that television plays a large part in keeping prices of toys low.

Kenner's products are distributed through traditional toy outlets. These include toy chains, independent toy retailers, department stores, drug stores and discount houses, among others.

Prices in the toy industry are extremely competitive and crucial for determining volume of sales. In fact, toys are often used as a means of increasing store traffic, and for this reason a retailer may keep prices especially low.

In order to keep costs low, virtually all toy companies manufacture or source their products in countries with lower labor costs. For stuffed dolls and animals, this is extremely important because the process is so labor intensive. Any increase in the cost of an item has an immediate effect on the retail price to the consumer.

IV. U.S. IMPORTS

1. Stuffed Dolls

Stuffed dolls are produced primarily in the Far East. Hong Kong and Taiwan are the world's largest producers of stuffed dolls; they are also the largest suppliers to the U.S. market.

Some U.S. companies have their own manufacturing operations in the Far East; those who do not often arrange for manufacturing on contract with foreign manufacturers. Some simply purchase from

vendors.

Often a producer will maintain an overseas office staffed with its own employees, as does Kenner in Hong Kong and Taiwan. Kenner's employees in these countries are responsible for placing orders, explaining manufacturing details to local vendors, and working with local vendors to ensure adequate quality control and adherence to shipping schedules.

Since it began sourcing products in the Far East in 1972, Kenner's purchases and operations have grown steadily. Kenner expects this trend to continue. Production capacity in the Far East should be able to keep pace with the increasing demands of the U.S. market. In addition to its Far Eastern operations, Kenner also maintains a border zone operation in Mexico. Kenner has made a commitment to maintain a global view in its sourcing decisions. It is interesting to note that Kenner expanded its Mexican operation at a time when that country was, for tariff purposes, at a parity with Korea and Hong Kong. Clearly, it is not necessary to impose a selective tariff on the latter countries in order to stimulate investment by U.S. toy companies in other developing countries. Data regarding the ratio of imports to consumption for stuffed dolls are not available. The ratio probably approaches 100 percent, however, since U.S. production is very limited.

Kenner has a considerable operation in Hong Kong with approximately 150 employees there who work with vendors on manufacturing, quality control and shipping. Kenner does not have its own manufacturing operation in the Orient. Kenner also has a small staff in Taiwan with approximately 15 employees. From the

time to time Kenner purchases from vendors in Korea through a trading company and has several quality control employees stationed there.

V. THE U.S. INDUSTRY

1. Stuffed Dolls

The U.S. toy industry imports virtually all of its product requirements in the stuffed doll area. All of the major toy companies source stuffed dolls from abroad, particularly from the Far East. The principal reason for this is the high labor content of stuffing dolls, which require considerable hand sewing and finishing.

Current data with respect to U.S. production of stuffed dolls are not available. However, such production is believed to be extremely limited. Furthermore, domestic production is reportedly concentrated in the manufacturing of larger stuffed figures, the stuffing of "skins" which have been sewn abroad, or the manufacturing of unique or specialty-type items. Each of these manufacturing operations is clearly complementary to the extensive importing operations conducted by U.S. toy companies.

The actual number of firms producing stuffed dolls in the United States is not available. The number is believed to be quite small, however. The number of companies producing the broader category of stuffed dolls and toys in the United States has been reported to be approximately 230, with U.S. domestic employment estimated at 7,300. However, there is some skepticism among industry officials as to whether such data relate to manufacturing operations. There is a possibility that such data reflect in major

part operations that are more closely tied to overseas manufacturing.

Many U.S. toy companies producing stuffed animals are multinationals. Some U.S. companies have their own manufacturing operations in the Far East; others arrange for contract manufacturing; some simply purchase from vendors (some of which have some American management).

CONCLUSION

Kenner urges your support of HR 590 and HR 928 for several reasons. First, any duty imposed on imports of stuffed dolls and animals would be quickly reflected in the prices paid by U.S. consumers. This is a particularly important consideration given the high (12 percent ad valorem in some cases) rate of duty that will be imposed absent enactment of the bills.

Second, imports of stuffed dolls and animals strengthen the competitive position of U.S. toy companies which can complement their lines of domestically-produced toys with products which are not economically feasible to manufacture in the United States. Like other major toy companies, Kenner sources virtually its entire stuffed doll and animal lines overseas. The imposition of a high rate of duty on these products would needlessly undermine Kenner's cost containment efforts.

Third, because there are few U.S. producers in competition with imports of stuffed dolls and animals, there would be little or no adverse effect resulting from the grant of duty-free status to these categories. Because of the considerable differential in

production costs, stuffed dolls and animals will continue to be manufactured off-shore regardless of whether the bills are enacted.

Finally, it is highly unlikely that failure to enact HR 590 and HR 928 would cause Kenner or any other U.S. manufacturer to alter their purchasing or investment plans in favor of any lesser developed countries. Many considerations must be taken into account in deciding where to source products. Foremost among those are the ability of a supplier to respond to frequent design and style changes and, notwithstanding, to deliver consistently high quality. Other considerations are the geopolitical situation, transportation time and the number of vendors available to a company. In this context, there are numerous problems associated with sourcing from lesser developed countries.

Thus, the only tangible result of failure to enact HR 590 and HR 928 would be a direct increase in the cost of these items to U.S. toy companies, such as Kenner, and to U.S. consumers. There would be no apparent advantages.

TMA
TOY MANUFACTURERS OF AMERICA

March 6, 1987

Joseph K. Dowley, Esq.
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington, D.C. 20515

Dear Mr. Dowley:

This letter in support of H.R. 590 and H.R. 928 is submitted in response to the request for public comments contained in the press release issued by the Subcommittee on Trade on February 13, 1987. The Toy Manufacturers of America (TMA), founded in 1916, today represents about 250 American toy manufacturers, who are responsible for an estimated 90 percent of the $12 billion in annual toy sales in the United States. For the reasons set forth below, we respectfully urge enactment of both H.R. 590 and H.R. 928.

H.R. 590 would extend the duty-free treatment previously accorded under items 912.30, 912.34, and 912.36, of the Appendix to the Tariff Schedules of the United States (TSUS) through December 31, 1991, and retroactively to December 31, 1985, the expiration date of these provisions. Items 912.30, 912.34, and 912.36, TSUS,

provide duty-free entry from column one countries of "stuffed dolls (with or without clothing) and doll skins for stuffed dolls," "stuffed or filled toy figures of inanimate objects not having a spring mechanism," and "skins for stuffed toy figures of animate and inanimate objects," respectively. This duty suspension was first enacted in 1983 and has proved to be of great benefit to the American toy industry.

H.R. 928 would temporarily suspend the duty on stuffed or filled toy figures of animate objects (except dolls) not having a spring mechanism, currently classified in item 737.30, TSUS, until December 31, 1992. We understand that, through inadvertance, H.R. 928 as introduced omits the size limitations incorporated in the both last year's bills (H.R. 2335, S.2399, and Section 845 of H.R. 4800) and the current omnibus bill (Section 845 of H.R. 3), although it was only intended to add "filled" toy figures to the version previously passed by the House of Representatives. Accordingly, we understand that steps will be taken to correct this oversight, such that duty-free treatment be accorded to "stuffed or filled toy figures of animate objects (except dolls) not having a spring mechanism and not exceeding 25 inches in either length, width, or height." It is our belief that expanding the scope of the duty suspension to include "filled" toy figures will have no adverse impact on any domestic interests.

TMA believes that enactment of the two bills in questions would

greatly benefit the U.S. toy industry and the U.S. economy. Duty-free treatment for these toy items would allow U.S. toy companies to preserve and expand domestic activities and employment while lowering the costs of stuffed and filled dolls and toy figures to the American consumer. In addition, because no domestic companies competitively produce stuffed dolls, toy figures and skins therefor, the duty-free importation of these items causes no harm to any U.S. manufacturer.

The toy industry in the U.S. has developed into an integrated industry utilizing both imports and domestic production to maximize sales. Because many dolls and toy figures are labor-intensive, and because the great variety of patterns and styles necessary to produce a full product line makes automated production processes impractical, the toy industry has turned to foreign sourcing for many of these dolls and toy figures. The United States toy industry's reliance on imported products was acknowledged by the International Trade Commission, in its report on Toys, Games And Wheel Goods (USITC Pub. No. 841, Control No. 7-5-27, March 1983), in which the ITC found that:

> There are some small firms devoted solely to the production of certain types of toys, but most of the major producers manufacture a wide variety of toys, games, and children's vehicles. In addition, most domestic producers, including all the major firms, import to some extent, ranging from the importation on certain lines or parts to significant investment in

> foreign production facilities for supplying both the United States foreign market. (At 87) (emphasis added)

This decision to import from developing countries is based on the commercial assessment by U.S. toy producers of labor and freight costs involved in making and shipping toys:

> As labor costs provided a disincentive for manufacturers to produce high-labor-component toys domestically, transportation costs provide an incentive to produce larger toys in the United States. Domestic production is weighted toward larger nonmechanized toys of all types, particularly wooden and steel toys. There is also trend in the production of stuffed toys having a spring mechanism and filled toys to have the cutting and sewing done in foreign facilities and the stuffing or filling and finishing done in the United States. In this manner, the domestic manufacturer can take advantage of the lower labor costs abroad in producing the parts requiring the highest labor input, while avoiding much of the transportation cost penalty by shipping toy skins instead of finished figures. (At 90)

By sourcing these dolls and toy figures abroad, the toy industry has been able to rationalize production on the basis of labor and transportation costs, such that foreign imports actually complement, rather than compete with, domestic production and lead to increased employment in research, design, finishing, packaging, advertising and marketing operations at home.

TMA member companies have imported stuffed dolls and toy figures and their skins to utilize their capital, technology, and labor efficiently, and they employ large numbers of domestic workers in the development, production, marketing and selling of these items. The imposition of duties on stuffed dolls and toy figures would decrease their sales and the number of U.S. workers employed in these importations because the toy industry would have to devote a substantial amount of its limited capital resources towards duty payments for those items.

The payment of duties for stuffed dolls, toy figures and their skins would have to be passed on to the American family in the form of higher priced toys. Furthermore, since these imports supply the needs of the lower end of the toy market, American families which can least afford to buy higher priced toys would be forced to decide whether to pay the duties in the form of higher priced products or to forego their doll and stuffed toy figure purchases for their children.

TMA urges passage of H.R. 590 and H.R. 928 (with the amendment noted above). Enactment will benefit our employees, the American consumer and the United States economy. The lack of a domestic industry manufacturing stuffed dolls, toy figures and their skins makes it absolutely necessary for our members to source these products from abroad. The imposition of import duties will not lead to the creation of such an industry in the United States, but will simply

increase to cost of this merchandise to consumers. Thus, duty-free importations of the goods provided for in this legislation would allow our members to maintain and expand their domestic sales and employment while at the same time keeping prices on such items low.

Respectfully submitted,

Douglas Thomson

Douglas Thomson, President
Toy Manufacturers of America, Inc.
200 Fifth Avenue
New York, NY 10010
(212) 675-1141

LAW OFFICES
GEORGE R. TUTTLE
A PROFESSIONAL CORPORATION
NATIONAL PLACE
1331 PENNSYLVANIA AVENUE, N.W.
SUITE 1200F
WASHINGTON, D.C. 20004
CABLE ADDRESS: LAWTUT
TELEX NO. GRT 27863
AUTOMATIC TELECOPIER: (202) 662-7551
TELEPHONE: (202) 662-7580

SAN FRANCISCO OFFICE
THREE EMBARCADERO CENTER, SUITE 1280
SAN FRANCISCO, CALIFORNIA 94111
AUTOMATIC TELECOPIER: (415) 986-0908
TELEPHONE: (415) 986-8780

GEORGE R. TUTTLE
STEPHEN S. SPRAITZAR
CARL D. CAMMARATA
GARY C. COOPER
GEORGE R. TUTTLE, III

WASHINGTON D.C. OFFICE
GEORGE R. TUTTLE
IRVING W. SMITH, JR.
ADMITTED IN WISCONSIN

FILE REFERENCE NO.:

1139

March 6, 1987

Joseph K. Dowley
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Longworth House Office Building
Room 1102
Washington, D.C. 20515

Re: H.R. 590 and H.R. 928--Duty on Stuffed Dolls and Toy Figures

Dear Mr. Dowley:

On behalf of Worlds of Wonder, Inc., of Fremont, California, we respectfully submit comments in support of the passage of H.R. 590 and H.R. 928 which would temporarily suspend duty on certain stuffed dolls and toy figures.

Worlds of Wonder is a California corporation located in Fremont, California, and engaged in the business of manufacturing and distributing the Teddy Ruxpin stuffed animals as well as the related cassette tapes and books made for use with the Teddy Ruxpin figures. At the present time, these articles are manufactured in Hong Kong, Taiwan, and Korea.

I. H.R. 590

As written, H.R. 590 would extend the effective period of tariff Items 912.30, 912.34 and 912.36 until January 1, 1992. Although no longer in effect, these tariff items provided as follows:

	Articles	Effective Period
912.30	Stuffed dolls (with or without clothing) and doll skins for stuffed dolls (provided for respectively in Items 737.23 and 737.26, Part 5E, Schedule 7)	On or before 12/31/85
912.34	Stuffed or filled toy figures of inanimate objects not having a spring mechanism (provided for in Item 737.47, Part 5E, Schedule 7)	On or before 12/31/85
912.36	Skins for stuffed toy figures of animate and inanimate objects (provided for in Item 737.51, Part 5E, Schedule 7)	On or before 12/31/85

Thus, the tariff items involved in the duty suspension include Items 737.23, 737.26, 737.47, and 737.51, which provide as follows:

	Articles	Duty Rate
	Dolls, and parts of dolls including doll clothing:	
737.23	Other: Dolls (with or without clothing): Stuffed	12.7% ad valorem

737.26 Parts of dolls:
Doll skins for
stuffed dolls . . . . . 12.7% ad valorem

737.47 Toy figures or inanimate
objects, not having a
spring mechanism:
Stuffed or filled . . . . . 8.3% ad valorem

737.51 Skins for toy figures
of animate or inanimate
objects . . . . . 8.3% ad valorem

II. H.R. 928

H.R. 928 proposes to add an additional Item to the tariff schedules by inserting in numerical sequence the following:

	Articles	Effective Period
912.32	Stuffed or filled toy figures of animate objects (except dolls) not having a spring mechanism (provided for in Item 737.30 or 737.40, Part 5E, Schedule 7)	On or before 12/31/92

Worlds of Wonder has been importing and will continue to import stuffed toy figures which will be classified under Items 737.23, 737.47, 737.30, and 737.40. Thus, Worlds of Wonder will benefit if H.R. 590 and H.R. 928 are enacted into law.

III. Legislative History

The initial duty suspension for the stuffed doll and toy figure items classified in items 737.23, 737.26, 737.47, and 737.51 was made as a result of the enactment of Public Law

97-446 (January 12, 1983) entitled "Tariff Schedule Revisions." This act suspended the duty on the four tariff items involving dolls and toy figures until December 31, 1985.

The legislative history (see attached) of Public Law 97-446 indicates that the provision to suspend duty on dolls and stuffed toy figures of inanimate objects was introduced on behalf of the Knickerbocker Toy Company, a major importer, distributor and assembler of stuffed dolls and toy figures. These tariff items were made duty free because there was no domestic production of these articles.

The legislative history further indicates that there were over 200 U.S. domestic establishments producing dolls and stuffed toys in 1981. However, these U.S. companies produced only small quantities of completed stuffed dolls, because they primarily imported the skins and stuffed the skins after importation into the U.S. It was also noted that there was significant foreign assembly of U.S. components for reexport to the United States under Item 807.00. (House Report No. 97-837, Committee on Ways and Means, 97th Congress, Second Session).

IV. Conclusion

Worlds of Wonder submits that the temporary suspension of duties should be continued on the four tariff items, because it is believed that essentially the same conditions exist today as existed when Public Law 97-446 was passed in

1983. Further, for the same reasons, duties should be temporarily suspended on stuffed or filled figures of animate objects classifiable in Items 737.30 and 737.40. Accordingly, for the foregoing reasons, it is respectfully requested that H.R. 590 and H.R. 928 be enacted and the Customs duties on Items 737.23, 737.26, 737.30, 737.40, and 737.51 be temporarily suspended.

Respectfully Submitted,

GEORGE R. TUTTLE, A P.C.
1331 Pennsylvania Avenue, N.W.
Suite 1200 F
Washington, D.C. 20004
(202) 662-7550

By Irving W. Smith, Jr.
Irving W. Smith, Jr.

IWS/amf
Enclosure

cc: Worlds of Wonder:
Paul Jacab, Esq.
Mr. Bob Henry
Mr. Joe Roth
Mr. Brian Wong

George R. Tuttle, Esq.

97TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
No. 97-837

MISCELLANEOUS TARIFF AND CUSTOMS AMENDMENTS

SEPTEMBER 17, 1982.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 6867]

[Including cost estimate of the Congressional Budget Office]

SECTION 142.—CERTAIN DOLLS AND TOY FIGURES

(Originally introduced as H.R. 5764 by Mr. Guarini)

Section 142, as amended, would amend the Tariff Schedules of the United States to suspend until December 31, 1985, column 1 (MFN) duties on the following items:

1. Stuffed dolls (with or without clothing)
2. Stuffed toy figures of inanimate objects
3. Inanimate objects not stuffed but not wholly or mostly metal, rubber or plastic—this would make duty-free such things as bean-bag toys
4. Skins of the following (which would be stuffed in the U.S.): dolls, toy figures of animate objects, and toy figures of inanimate objects

Section 142 would add three new items 912.30, 912.34, and 912.36 to provide the duty suspensions.

This provision was introduced on behalf of the Knickerbocker Toy Company, a major importer, distributor, and assembler of stuffed dolls and toy figures. The intent is to make duty-free the column 1 entry of stuffed dolls, doll shells, and certain figures of inanimate objects **for which there is no domestic production**.

There were over 200 domestic establishments producing dolls, and stuffed toys in 1981. These domestic companies, however, produce only small quantities of completed stuffed dolls but rather import the skins and do the stuffing job domestically. They also import completed dolls and toy items. There is significant foreign assembly of U.S. components for reexport to the United States under item 807.00.

The other major category covered by this provision, beyond stuffed dolls, is "toy figures of inanimate objects". These are stuffed objects or they are objects not stuffed but which are not mostly metal, rubber, or plastic (eliminating "hard" toys).

Total U.S. employment in importation and production of all dolls, and toy figures was estimated to be 7,000 in 1981.

Imports of the items addressed in this provision are as shown below:

Item	1981 Value (millions)	Major suppliers	Share of imports (percent)
stuffed dolls	$18.3	Taiwan	60
		Hong Kong	13
		Korea	9
Stuffed and "near-stuffed" toy figures of inanimate objects	$10-15	Korea	
		Taiwan	Over 60
		Mexico	
Doll and toy skins	N.A.	Taiwan	25-45
		Korea	
		Hong Kong	50

Existing law provides for the articles which are the subject of this provision in Tariff Schedules of the United States items 737.21 through 737.50 with column 1 rates ranging from 13.9 percent ad valorem to 17.1 percent, and column 2 rates of 70 percent ad valorem.

In addition, column 1 staged reductions are planned resulting from the Multilateral Trade Negotiations. As of January 1, 1987, the column 1 rates will range from 8 percent ad valorem to 12 percent ad valorem.

All the above items are eligible for duty-free treatment under the Generalized System of Preferences; however, the following countries are currently excluded on the items listed:

Country	Item(s)
Hong Kong	"Other"
Taiwan	Stuffed dolls

Note that section 104 of this bill contains definitions and a restructuring of the TSUS categories for the items addressed in this section.

The Committee amended the provision by deleting doll clothing and stuffed animate objects from the proposed duty suspension.

SECTION 151.—EFFECTIVE DATE

Section 151 provides that sections 101 through 142 would become effective 15 days after enactment but not before October 1, 1982. This arrangement prevents any revenue impact during fiscal 1982.

H.R. 591

Relating to the tariff classification of slabs of iron or steel.
No statements submitted.

H.R. 604

To extend duty-free treatment to certain chemicals.
No statements submitted.

H.R. 684

To amend the Tariff Schedules of the United States to continue the suspension of any duty on menthol feedstocks.
No statements submitted.

H.R. 748

To suspend for a 9-month period the duty on certain mixtures of cross-linked sodium polyacrylate polymers.
No statements submitted.

H.R. 750

To amend the Tariff Schedules of the United States to provide for rates of duty on imported roses consistent with those maintained by the European Economic Community on imports of roses from the United States and other nations.

STATEMENT OF THE ASSOCIATION OF
FLORAL IMPORTERS OF FLORIDA
REGARDING H.R. 750

BEFORE THE
SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

REQUEST FOR COMMENTS OF
CERTAIN TARIFF AND TRADE BILLS

The Association of Floral Importers of Florida (the Association) is a non-profit trade association representing thirty-nine U.S. importers of fresh-cut flowers located throughout the state of Florida. The Association speaks on behalf of its membership on such topics as international trade promotion and other pertinent industry issues.

The Association strongly opposes enactment of H.R. 750, a bill which proposes to dramatically increase the present U.S. duty on imports of roses. We believe that H.R. 750

represents a direct attack upon the historic U.S. free-trade philosophy and enactment of the bill would erect trade barriers at the very time when the Federal Government is encouraging our international trading partners to eliminate unfair and restrictive trade practices. Further, enactment of H.R. 750 would substantially raise the price of roses to U.S. consumers and would place an unbearable financial burden upon our Florida cut-flower importers.

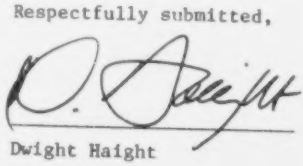
The United States stands for the time-honored concept of fair and effective international competition. This free and open trading system presents the best of all worlds for consumers. They gain the benefit of competitive pricing, the best selection and the greatest availability of a commodity in a world-wide market. Presently, the international trading system is in a precarious state because various interest groups, pleading economic hardship, are attempting to coerce our government into erecting protectionist barriers in order to placate certain narrow interests. However, particularly during times like these, special care must be taken by the Congress not to submit to this "quick fix" concept -- a concept which serves only to impair free trade and ultimately hurts American consumers.

The United States has always prided itself on being the leader in the trade of agricultural commodities, service industries and high technology products. This leadership is based upon the concept that free trade allows pure competition which in turn benefits all consumers. Sadly, in recent years, the first reaction of many businesses to competition is to ask the government for assistance. A much more productive reaction would be to pause, examine one's own operation, and then ascertain that everything possible is being done to compete effectively. If this self-examination was done before asking for government assistance, all consumers would be better served. Creating an artificial barrier to trade only serves to protect an inefficient industry for which the domestic consumer ultimately pays.

Specifically, enactment of H.R. 750 would have a devastating impact upon Florida cut-flower importers and their allied industries. Last year, the Association's member companies directly employed approximately 1,800 in Florida with related industries employing thousands more who contribute millions of dollars annually to the Southeastern U.S. economy. Enactment of H.R. 750 would place these U.S. businesses in financial jeopardy and would be disastrous to the Florida economy.

In summary, the Association of Floral Importers of Florida strongly urges this Committee not to report H.R. 750 because of the devastating impact upon employment which will result. Further, H.R. 750 is completely contrary to our concept of free trade and will serve only to heighten current international trading tensions. Only through fair and effective competition will the U.S. consumer be best served. Erecting artificial tariff barriers runs counter to the U.S. commitment to free trade and ultimately forces the U.S. consumer to pay the costs.

Respectfully submitted,



Dwight Haight

President

AFIF

STATEMENT OF JIMMY WILLIAMS
FLORISTS' TRANSWORLD DELIVERY ASSOCIATION
TO THE
SUBCOMMITTEE ON TRADE
WAYS AND MEANS COMMITTEE
U.S. HOUSE OF REPRESENTATIVES
ON H.R. 750
RE: INCREASED TARIFFS ON IMPORTS OF CUT ROSES

I am Jimmy Williams, owner of Larson-Williams Florist, Tampa, Florida and a member of Florists' Transworld Delivery for many years. I am speaking in opposition to H.R. 750, special legislation designed to raise U.S. tariffs on imports of cut roses to the level of those in effect in the European Economic Community. The bill calls for a 200 percent increase in the tariff on roses from 8 percent ad valorem to a two tiered system of 17 and 24 percent, depending upon the time of year.

FTD is a non-profit, member-owned cooperative of more than 21,000 independent retail florist small businesses in the U.S. In addition to providing a variety of business, educational and marketing services to our members, we attempt to speak for the consumer of floricultural products, with emphasis on keeping flowers, a discretionary type of gift and special occasion purchase within a range compatible with the consumer's willingness to buy flowers rather than a substitute product. I'm sure you have all seen our TV commercials featuring Merlin Olsen.

In 1977, FTD's board of directors adopted a policy calling for the availability in the marketplace of a quality product, in adequate quantities, at reasonable prices to retailers and ultimately to consumers. For this reason FTD is opposed to trade restrictions, however applied, on the importation of fresh cut roses (or other cut flowers) into the U.S. This position has been affirmed on five occasions by different FTD boards of directors FTD.

The lifeline of the retail florist -- his very ability to be a retail florist -- lies in the availability of flowers. For this fundamental reason, FTD continues to be opposed to efforts to restrict imports, directly or indirectly, and urges the subcommittee as strongly as it can to reject H.R. 750 as being mischievous and intended to obtain from the Congress restrictions previously (1980) denied by the International Trade Commission as being unnecessary and inappropriate. Commercial floriculture's products and services are valued at more than $1.5 billion at the wholesale level and approximately $6 billion at the retail level. These figures are calculated to increase sharply by 1990. The reason is to be found in the accelerating public demand for our goods and services. Roses are only a portion of these totals, but an important one, when measured in terms of consumer acceptance and preference.

A matter of primary concern about H.R. 750 is the fact that this bill would be in violation of international agreements of the U.S., specifically the General Agreement on Tariffs and Trade. This in our judgment lies in the fact that the bill seeks to exact "reciprocity" on a commodity basis, a concept for which there appears to be no basis in international trade law and regulation.

H.R. 750 is no more than an effort to persuade the Congress to legislate specific commodity tariff rates, a practice Congress gave up many years ago. Further, the effort to predicate U.S. rates on those levied on similar imports by a foreign entity with which the U.S. has no export trade in the affected commodity seems spurious in concept.

We thank this committee for the opportunity to state our views on H.R. 750, and urge that it be rejected.

March 5, 1987

COMMENTS ON H.R. 750, THE ROSE TARIFF EQUITY ACT OF 1987
BY THE HONORABLE LEON E. PANETTA

Introduction

At present, the future of America's rose producers is being seriously endangered by underpriced, underassessed foreign imports flooding our markets, and the situation is not improving but rather significantly worsening. Imported roses now capture almost 30 percent of the total U.S. market for roses, and this growth in imports has already been devastating to domestic rose growers. In the past decade, over one quarter of domestic rose growers have been forced out of business. Without action to correct the present inequities, we can expect to see more departures from this industry and possibly even its eventual demise. H.R. 750, the Rose Tariff Equity Act of 1987, is intended to help prevent this demise by aligning U.S. tariffs on imported roses with those of the European Economic Community (EC).

One of the major reasons for the strong penetration of the domestic market by foreign rose producers is the very low import duty, eight percent ad valorem, enjoyed by foreign exporters to this country. The European Economic Community imposes a duty three times as high as that imposed by the United States during the prime marketing season. This gives rose-exporting countries outside Europe a strong incentive to sell as many roses a s possible in the U.S. rather than in Europe, and these countries, especially Colombia, are taking full advantage of the difference in tariffs. In addition to this tariff advantage, major exporters of roses to this country enjoy competitive advantages resulting from unfair trade practices and subsidies. These will be outlined below.

The Extent of the Problem

From 1977 to 1983, imports of roses skyrocketed from 10.6 million blooms to 126 million, with the latter representing twenty percent of the domestic market. In 1986, almost 215 million blooms were imported, nearly 100 million more than in 1983 and a 24% increase from just one year earlier, 1985. Import penetration in relation to U.S. production and total consumption continues to increase at a rapid pace. In 1982, imports represented 17.2 percent of total consumption; in 1983, 20.5 percent of consumption; in 1984, 25.6 percent; 1985, 26.7 percent; and 1986, 30 percent. This means that while in 1983, one of five roses bought in this country was imported, in 1984 one rose out of four bought in the U.S. was from abroad, and this figure is now approaching one out of three.

As for specific countries, Colombia is now by far the number one importer of roses to this country. Colombia exported 125 million blooms in 1985, and this figure shot up to 160.5 million in 1986. Mexico is second, with 15.1 million blooms last year, and the Netherlands is third with 11.5 million blooms. In 1987, figures for January indicate that imports are continuing to skyrocket, with Colombia exporting 12 million in that month alone, compared to 10.7 million in January of 1985. This means that we imported 326,750 more roses per week from Colombia in January of this year than in 1985; this represents an increase of 12.3% in a market period that is generally quite slow.

Attempts to Obtain Administrative Relief

The unfair trade practices of several rose-exporting countries have been well-documented and upheld by the International Trade Administration but domestic rose growers have nonetheless still been unable to obtain any significant measure of relief through these channels.

Since 1977, domestic rose growers have repeatedly attempted to obtain relief through administrative channels, including one formal request and two follow-up requests, for an investigation of the Colombian rose-growing and exporting operation, by the U.S. Trade Representative, Ambassador Clayton Yeutter, under Section 301 of the Trade Act

of 1984. These have all been turned down, with the latest denial occurring on December 15, 1986. This is in spite of the fact that the unfair trade practices of several rose-exporting countries have been well-documented and upheld by several agencies. To cite several examples:

-- in 1980, domestic rose growers initiated twin countervailing duty investigations against subsidized exports of roses to the U.S. from the Netherlands and Israel. The Netherlands case was reported out with no determination of injury. The Israel case resulted in a countervailing duty determination of net subsidies of 1.5%. This decision was appealed by Roses, Inc., to the Court of International Trade, which remanded the case to the International Trade Administration. The I.T.A. then found that, when fully calculated, the Israeli subsidies amounted to 11.5 percent. A countervailing duty of 22.6 percent was imposed on Israel as a result. This rate, and countervailing duties assessed in the past, still understate the true extent of Israeli subsidization of roses, but this duty has nonetheless decreased Israel's penetration of the American rose market.

-- in November, 1982, the International Trade Administration preliminarily determined that the Colombian government, under its "CAT" program, was subsidizing its flower programs to the tune of 5 percent of the value of exports to the U.S.; the subsidies were, in effect, a "bonus" or reward. In January, 1983, however, the U.S. again deprived the rose industry of fully warranted administrative relief by suspending the investigation. The I.T.A. decided against imposing countervailing duties on the basis of a suspension agreement under which Colombian growers accounting for most exports to the U.S. agreed to renounce the "bonuses" they received under the "CAT" program.

These growers have, however, found means to circumvent their obligations under this suspension agreement, raising serious questions as to whether the suspension agreement can be, or is being, seriously monitored. In early 1984, the Colombian government adopted another grower support program, known as "CERT," which established bonuses of 25 percent for rose exports to countries other than the United States, while retaining only a 1 percent bonus for exports to the U.S. In addition to having the effect of providing Colombian growers with subsidy income equal to the suspended "CAT" program, they have circumvented U.S. countervailing duty trade laws and caused U.S. growers to lose market share in our only major export market, Canada.

-- subsidized roses from Colombia escaped the imposition of countervailing duties when the Commerce Department in 1984, under its so-called "general availability" rule, refused to countervail the subsidies since they are also available to other Mexican horticultural sectors. The appeal of that decision is still pending before the Court of International Trade. That court has, indeed, recently overruled the Department's "general availability" rule in other cases and the domestic rose growers anticipate a favorable ruling on their appeal. At present, however, subsidized mexican roses continue to enter the U.S. and be sold without countervailing duties being imposed.

The omnibus trade bill approved last year by the House included an amendment I introduced to agriculture trade legislation which would have required a study by the Secretary of Agriculture and U.S. Trade Representative on rose imports' effects on the domestic rose industry and on the extent of foreign subsidies provided to foreign rose growers. This study would have required completion within 120 days. The Ways and Means Committee did not include the Rose Tariff Equity Act itself in H.R. 4800 last year. However, in a report accompanying the bill, the Committee acknowledged that "domestic rose growers have faced severe problems with international competition." The report also stated that "in view of complaints that the U.S. Trade Representative

> met with foreign grower-representatives and growers... yet did not meet with domestic growers or representatives nor allow them to rebut those arguments (raised by the foreign growers), the Committee is concerned that the industry's Sec. 301 petition may not have been given fair and thorough consideration.

> The Committee expects the U.S. Trade Representative to give thorough consideration to the rose growers Sec. 301 petition in an expeditious timeframe and to make a decision on the merits as to whether an investigation and action may be appropriate. If the Committee later decides that there has been insufficient attention to this problem, it will consider further legislative action."

All available evidence seems to indicate that there has been insufficient attention to this problem, both in the past and at present, by any agencies or offices that could provide administrative relief. In addition, it seems that the "cards may be stacked" in favor of the importers, particularly Colombia, in dealings with the U.S. Trade Representative. Shortly after domestic growers filed their latest complaint with the U.S. Trade Representative, on August 5, 1986, a representative for Ascoflores, the Colombian flower growers organization, met at least four times with the Trade Representative within two weeks. During this same period, the attorney for the domestic growers could not even get repeated calls to Mr. Yeutter's office returned. The strong evidence collected in the past demonstrating the need for relief should have been enough for the U.S. Trade Representative to initiate action. He has not done so, and he has not even responded to the strong language included in the report on H.R. 4800. In spite of considerable and repeated efforts, the rose growers keep getting the door slammed in their attempts to obtain relief through traditional administrative remedies.

In my judgement, the case for legislative relief, as provided for in H.R. 750, has become overwhelming based on the rose industry's precarious situation and the lack of any significant response from channels for administrative relief. Aligning United States tariffs with those of the European Economic Community, as my bill proposes, would be a fair solution that would give sorely-needed relief to domestic rose growers by providing a level playing field for all rose-producing countries. This playing field is now heavily skewed against America's rose growers. In view of the fact that legislation was passed last year designating the rose as "the official floral emblem" of the United States (S.J. Res. 159, signed into law October 7, 1986), those who grow these beautiful flowers in this country fully deserve fair treatment, and the chance to compete fairly with foreign growers - this is all that they are seeking, not subsidies or any special advantage. It would indeed be ironic, and sad, if the producers of our official national flower in this country were put out of business due to unfair competition from abroad. This is precisely what the Rose Tariff Equity Act is intended to prevent.

STATEMENT OF

JAMES C. KRONE, EXECUTIVE VICE PRESIDENT

ROSES INCORPORATED

TO THE UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON WAYS AND MEANS

IN SUPPORT OF H. R. 750 (PANETTA)

THE ROSE EQUITY BILL

WHO IS ROSES INCORPORATED?

Roses Incorporated (Roses Inc.) is a nonprofit national trade association of family-owned greenhouse operators who produce over 80% of the roses grown in the United States.

WHAT IS ROSES INC.'S POSITION ON H. R. 750?

Our position is strongly in support of H. R. 750, which asks ONLY for like treatment of U. S. grown roses in world trade.

If enacted, the bill would exactly align the U. S. tariff on roses with that of the European Economic Community (EEC). This would provide a strongly competitive U. S. agricultural industry that produces our national flower with a FAIR position in world trade. It would also bring about relief for these growers from unfairly traded and subsidized imports which they have been unable to have properly addressed through the U. S. agencies that Congress has empowered to insure the fair treatment of U. S. business.

WHAT IS THE PROBLEM AND HOW HAS THE INDUSTRY BEEN IMPACTED?

Production of roses in the United States has been severely impacted by imports of subsidized, dumped and unfairly trade roses entering the United States.

The following table illustrates the market share losses our industry has experienced in recent years:

Year	Percent of Total Consumption of Roses in the U. S. held by Imports
1982	17.2%
1983	20.5%
1984	25.6%
1985	26.7%
1986	30.0%

Figures are based on USDA publication, "Floriculture Crops," and National Market Trends.

To increase their share of the U. S. rose markets, the imports have consistently undersold the U. S. grower in Eastern and Midwestern markets. Western producers were generally able to hold their own against the imports on prices until 1986 when the importers, facing major increases in their own supply to the market, began to undercut the California producer, and generally offered their roses in 1986 at less than their 1985 prices.

ROSES INC. STATEMENT IN SUPPORT OF H. R. 750 (CONT.)

The following tables illustrate the 1985 and 1986 import prices for roses and the 1986 prices for California roses. Clearly, the importers in many major market periods undersold the California rose grower AND their own prices from the previous year.

ROSE IMPORT PRICES 1986 AND 1985

MONTH	1986	1985
JANUARY	0.55 - 0.60	0.50 - 0.68
	0.60 - 0.60	0.50 - 0.68
	0.55 - 0.60	0.40 - 0.65
	0.30 - 0.40	0.38 - 0.55
	0.40 - 0.50	0.70 - 0.85
FEBRUARY	1.25 - 1.25	1.15 - 1.25
	0.85 - 1.00	0.60 - 1.25
	0.25 - 0.25	0.40 - 0.50
	0.20 - 0.20	0.20 - 0.30
MARCH	0.25 - 0.30	0.25 - 0.30
	0.25 - 0.30	0.35 - 0.42
	0.40 - 0.45	0.35 - 0.40
	0.38 - 0.40	0.40 - 0.55
APRIL	0.30 - 0.35	0.60 - 0.60
	0.20 - 0.20	0.35 - 0.45
	0.18 - 0.20	0.20 - 0.30
	0.24 - 0.26	0.25 - 0.33
MAY	0.30 - 0.35	0.35 - 0.45
	0.38 - 0.45	0.17 - 0.30
	0.35 - 0.40	0.10 - 0.50
	0.18 - 0.25	0.10 - 0.20
	0.18 - 0.20	0.25 - 0.39
JUNE	0.20 - 0.22	0.28 - 0.40
	0.38 - 0.42	0.40 - 0.50
	0.32 - 0.35	0.50 - 0.55
	0.28 - 0.30	0.50 - 0.55
JULY	0.20 - 0.20	0.45 - 0.50
	0.20 - 0.25	0.30 - 0.35
	0.25 - 0.27	0.20 - 0.27
	0.30 - 0.30	0.25 - 0.34
AUGUST	0.32 - 0.35	0.24 - 0.27
	0.35 - 0.40	0.20 - 0.25
	0.38 - 0.38	0.20 - 0.33
	0.28 - 0.32	0.25 - 0.35
	0.20 - 0.25	0.30 - 0.35
SEPTEMBER	0.20 - 0.25	0.35 - 0.36
	0.25 - 0.25	0.38 - 0.40
	0.26 - 0.30	0.38 - 0.45
	0.28 - 0.30	0.38 - 0.42
OCTOBER	0.25 - 0.28	0.25 - 0.33
	0.25 - 0.30	0.30 - 0.35
	0.25 - 0.30	0.22 - 0.29
	0.20 - 0.28	0.28 - 0.32
NOVEMBER	0.18 - 0.23	0.20 - 0.25
	0.20 - 0.28	0.15 - 0.20
	0.18 - 0.22	0.18 - 0.30
	- -	0.25 - 0.30
DECEMBER	- -	0.30 - 0.40
	- -	0.35 - 0.40
	- -	0.35 - 0.38
	- -	0.40 - 0.40
	- -	0.45 - 0.45

CALIFORNIA GROWN ROSE PRICES 1986

MONTH	1986
JANUARY	0.52 - 0.58
	0.64 - 0.72
	0.72 - 0.80
	0.80 - 0.88
	0.84 - 0.88
FEBRUARY	1.25 - 1.25
	0.90 - 1.00
	0.48 - 0.60
	0.32 - 0.48
MARCH	0.36 - 0.42
	0.16 - 0.20
	0.44 - 0.48
	0.38 - 0.42
APRIL	0.16 - 0.25
	0.28 - 0.34
	0.30 - 0.36
	0.36 - 0.40
MAY	0.44 - 0.48
	0.44 - 0.44
	0.32 - 0.38
	0.36 - 0.38
	0.34 - 0.36
JUNE	0.32 - 0.34
	0.32 - 0.36
	0.30 - 0.36
	0.28 - 0.34
JULY	0.28 - 0.32
	0.28 - 0.32
	0.32 - 0.34
	0.32 - 0.36
AUGUST	0.32 - 0.36
	0.32 - 0.34
	0.32 - 0.34
	0.30 - 0.36
	0.32 - 0.34
SEPTEMBER	0.32 - 0.34
	0.32 - 0.34
	0.32 - 0.34
	0.30 - 0.36
OCTOBER	0.32 - 0.36
	0.32 - 0.36
	0.32 - 0.36
	0.34 - 0.36
NOVEMBER	0.34 - 0.36
	0.34 - 0.36
	0.34 - 0.36
	- -
DECEMBER	- -
	- -
	- -
	- -

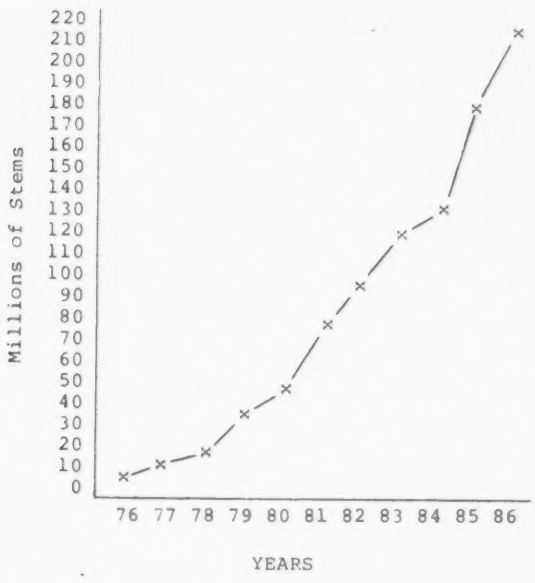
SOURCE: USDA ORNAMENTAL CROPS NATIONAL MARKET TRENDS

In 1985 total rose imports were 173 million stems. In 1986 those imports increased to 216 million stems, or a 24% increase over the previous year. This increase of 43 million roses put nearly a million roses a week into U. S. markets at prices that undersold U. S. producers from all parts of the country including California.

ROSES INC. STATEMENT IN SUPPORT OF H. R. 750 (CONT.)

The following chart illustrates the rapid penetration of the imported rose into the U. S. market place:

Growth of Rose Imports into the United States



Under these pressures the U. S. rose market cannot absorb the added production and growers are reporting oversupply conditions in major market periods such as Mother's Day. Even Valentine's Day, the premier rose sales day, showed this year that the supply was more than adequate as retailers carried roses over to the following week.

Other major flowers, such as pompons, standard carnations, and standard mums, have experienced the pressures of imports and many, many growers have gone out of business in these crop areas.

The following table illustrates the number of growers who have gone out of business since 1972:

CROP	NO. OF GROWERS IN VARIOUS YEARS REFLECTED				% LOSS
	1972	1976	1981	1985	1972-1985
Pompons	1,912	1,1261	894	662	65%
Std. Carnations	1,357	539	331	285	79%
Roses	317	230	222	239	25%
Std. Mums	1,955	1,029	724	537	73%

As the above represents the major cut flowers, it is easy to see why the rose grower is most concerned about his future, and if he is forced out of business there is little hope that he could change crops to other cut flowers, and considerable structure remodeling would be needed to go to container crops.

ROSES INC. STATEMENT IN SUPPORT OF H. R. 750 (CONT.)

IS CONGRESS THE PLACE TO SOLVE THIS PROBLEM?

Like it or not, it is the ONLY place.

For a very small group of family-owned businesses, this industry has been through all the hoops. They have tried for relief from the International Trade Commission with antidumping actions and through the International Trade Administration with countervailing duty cases. They have tried 201 escape clause petitions, 301 actions before the United States Representative, and worked diligently to keep their crop off of the GSP list.

The bottom line is that for the most part they have been unable to make the U. S. trade laws, and the agencies empowered to implement these laws, work to provide relief that keeps the market place fair.

A chronology of the actions tried by this industry is attached as Appendix A. In brief, we have attempted to present in Appendix A what was done, when, and why it failed to work.

For these reasons the industry feels it has no choice except to bring the problem to the doorstep of Congress for immediate action.

CAN THE U. S. ROSE GROWERS COMPETE?

We sure think so, and we are doing a good deal more than working in Washington to keep our industry alive.

Rose growers feel that they must not only sell their roses but also those that are imported because the importers do not do anything to promote their roses. Hence, the U. S. growers, through Roses Inc., have an active Public Relations Program that they fund with over 65% of their association dues income.
At the same time, they have sponsored research at major universities around the country, finding ways to cut costs and increase productivity. This has included developing systems to insulate a greenhouse. Today we can grow roses with 60% LESS heat than 10 years ago due to this research work. In addition, new varieties have been introduced, nutrition systems developed, and automated computers introduced to control the environment and provide business controls. There are also systems that provide artificial light and the addition of carbon dioxide to speed growth.

These growers deserve a chance to compete without having to run against a foreign grower and his government.

THE ROSES INC. IMPORT POLICY

Our aim is not to restrict the flow of imported roses, but rather to take the foreign governments with their subsidies and the foreign growers' unfair trade practices out of the market place.

Thus, our actions ask only for adjustments in tariffs to offset the subsidies. We do not ask for quotas or systems that would restrict trade. Enactment of H. R. 750 would greatly offset the advantages given to the foreign grower by his government, especially those that we cannot get our government agencies to address through traditional laws.

HOW DOES THE ROSE EQUITY BILL OFFSET COLOMBIAN ROSE ADVANTAGES?

Colombia is clearly the major exporter of roses to the United States. At present the Colombians have little home market for their roses and as they make their decisions to export, they know that to ship to the EEC they must pay a 24% tariff in the EEC summer months and 17% in the winter. However, they can ship to the U. S. any time of the year and face only an 8% tariff. Hence, they have a 9% to 16% incentive to ship to the United States, depending on the time of year.

Making our tariff the same as that of the EEC would remove that artificial incentive and bring to the world market shipping decisions based on where the roses are needed, where best price and quality is served, rather than based on a tariff imbalance.

ROSES INC. STATEMENT IN SUPPORT OF H. R. 750 (CONT.)

Background on EEC and U. S. Rose Tariffs.

During the life of the EEC (1957 to present) that body has refused to grant any concessions on fresh cut flowers, including roses, during its principle growing season.

In their off peak periods they began in 1957 with a 20% tariff on flowers, and did accept a 3% reduction during the Kennedy Round of GATT in 1967.

Regarding the U. S. rose tariff history, we reduced our 40% level in 1939 by 15%; by an additional 12½% in 1948; and by 2½% during the Dillon Round in 1963.

Thus, going into the Tokyo Round in 1979, we held a 10% tariff on roses and gave away 2% more during those GATT talks, bringing us to our present 8% level.

Of interest, other countries also have tariffs on roses that are much higher than ours. Canada has a 12½% tariff; Colombia 25%; and Mexico 50%.

The EEC countries and Colombia require licenses. In the EEC both quantity and price are stipulated in the license and may be revised by the issuing country after issue. As most EEC imports are sold through their extensive auction system for flowers, it is almost impossible to predetermine sale prices in a license. In Colombia the license requires that products imported be in their nation's best interest, not available from home industries, and stipulations that dollars be available to pay for such imports make it very unlikely that anyone could qualify for such a permit. In Mexico cut flowers are on a special list of about 300 items for which import licenses will automatically be denied.

Compensation may not be required if the proposed tariff legislation on roses is passed.

The Congress is not deprived of its constitutional power to regulate foreign commerce by the membership of the United States in the General Agreement on Tariffs and Trade.

Article XXIII of the GATT obligates the United States only to "give sympathetic consideration to the representations or proposals" of any other member of the GATT which considers that any benefit to which it is entitled under GATT is being nullified or impaired by legislation, such as H. R. 750, the proposed rose equity bill.

If "no satisfactory adjustment is effected" between the United States and such country, Article XXIII provides that "the matter may be referred to" the contracting parties of GATT for consideration. The contracting parties may authorize the affected country to suspend the application of tariff concessions of equivalent value to that which has been changed by the legislation enacted by the Congress. The GATT Council considers such complaints and appoints a panel of experts to study the complaints and report to the Council with recommendations for consideration of the parties when they fail to achieve a satisfactory settlement of the matter by bilateral discussions. Typically, these studies occupy long periods of time, and usually result in the countries concerned reaching some mutually satisfactory accommodation.

It is, therefore, by no means automatic or certain that the United States "would be obligated under the trading rules of the Agreement to grant compensation to supplier countries belonging to the GATT if duties on roses are raised." (Letter from Hon. William E. Brock, the United States Trade Representative, April 30, 1982, to Senator Daniel Patrick Moynihan).

The Committee on Finance, United States Senate, has discussed the criteria which should be applied when the United States has increased tariffs under the escape clause. The same criteria should apply when the United States increases tariff through legislative action.

> "It is not intended that this section be interpreted as requiring the payment of compensation whenever import relief has been granted pursuant to section 203 or requiring that a foreign country be precluded from compensation if it has taken action pursuant to Article XIX (the escape clause in GATT) without extending compensatory concessions to the United States. The GATT provides that countries seeking compensation must show that they have been adversely affected, and it is expected that no action would be taken under this section until such a showing has been made." (S. Rep. 93-1298, p. 10).

ROSES INC. STATEMENT IN SUPPORT OF H. R. 750 (CONT.)

ABOUT H. R. 750 AND THE LEGISLATIVE ROUTE

You should know that legislation asking for tariff adjustment has been introduced and supported by this industry in the 97th, 98th, 99th, and now the 100th session of Congress.

Early bills were designed, asking for tariffs that followed the same philosophy of the EEC which put its highest tariff, 24%, on its prime growing season, and a lower tariff of 17% on its off peak season. For the EEC, that put the higher tariff in the summer and the lower one in the winter. For U. S. growers the prime season was considered the winter period so early legislation asked for the 24% tariff in the winter and the 17% in the summer; hence following the same tariff principle as the EEC but with different periods.

Since the imports have taken over 20% of the U. S. market share, the U. S. grower has found that the summer markets have in fact become more important to him and beginning with the Senate version of the bill in the 99th session of Congress, we asked for language that would exactly reflect the same tariff structure of the EEC with high summer and low winter rates.

In the spring of 1986 in the 99th Congress, Roses Inc. worked diligently to bring our problem, and the disappointments it experienced at the hands of the government agencies charged with administration of the laws provided by Congress, to the members of the U. S. House of Representatives. Our efforts centered around support for H. R. 1701 (Panetta) and the House Ways and Means Subcommittee on International Trade. That effort brought our total cosponsors on the House bill up to 29, and although we were not included in the House Omnibus Trade Bill H. R. 4800, we were given favorable consideration in report language in that bill. This language states:

> "As an example, the Committee is aware that domestic rose growers have faced severe problems with international competition and that the industry has brought the nature of these problems to the attention of the Administration through the filing of a petition under section 301.
>
> In view of complaints that the USTR met with officials of the Colombian government and growers, and received arguments from Dutch grower representatives, yet did not meet with domestic growers or representatives nor allow them to rebut those arguments, the Committee is concerned that the industry's section 301 petition may not have been given fair and thorough consideration. At the urging of the Committee, the USTR agreed to meet with domestic rose growers about their petition.
>
> The Committee expects the USTR to give thorough consideration to the rose growers' section 301 petition in an expeditious time frame and to make a decision on the merits as to whether an investigation and action may be appropriate. If the Committee later decides that there has been insufficient attention to this problem it will consider further legislative action."

Through the efforts of members of the House, an appointment was secured for the rose growers to meet with the USTR on April 29, 1986. During that meeting the USTR agreed to review our original 301 petition to determine if an investigation should be initiated. Meetings were held with our Counsel and that of the USTR. Also, a number of the members of the House and Senate have communicated with the USTR, asking that he support the rose industry by starting an investigation, and that he move quickly with his decision on this matter. A little over three months later the USTR handed down a decision that he would still decline to initiate an investigation based on our petition.
In July 1986, The Wall Street Journal published a story that sheds a less than rose colored light on our experience with the 301 petition before the USTR. I quote here from that story covering the part pertaining to the rose industry:

> The Wall Street Journal, Monday, July 14, 1986
> **Pulling Strings**
> **Savvy Lobbyists Gain**
> **Clout in Washington**
> **For Foreign Clients**
>
> "Beyond the hyperbole, such firms have shown they can deliver. When Colombian flower exporters were accused of dumping subsidized roses on the U. S. market, they hired Heron Burchette Ruckert & Rothwell, a Washington law and lobbying firm whose founders include James Lake, a former Reagan campaign aide and a friend of Trade Representative Clayton Yeutter. Shortly after U. S. growers filed their complaint with the trade representative's office last Aug. 5, Mr. Lake obtained a meeting with Mr. Yeutter on Sept. 10 for his client-Ascolflores-and the Colombian ambassador. Reports filed at the Justice Department list three

ROSES INC. STATEMENT IN SUPPORT OF H. R. 750 (CONT.)

The Wall Street Journal, Monday, July 14, 1986
Pulling Strings (cont.)

additional meetings-on Sept. 16, Sept. 17 and Sept. 18-between Mr. Lake and Mr. Yeutter at a time when the attorney for the domestic growers says he couldn't even get a phone call answered by the trade representative's office. On Sept. 19, the ruling came down refusing any inquiry into the complaint.

Plays Down Role
Mr. Lake plays down his role but says, "The fact that I'm a friend of Clayton's is not a disadvantage." Both Mr. Lake and the trade representative's office argue that the substance of the case weighed against domestic growers; Roger Bolton, a spokesman for Mr. Yeutter, says the trade office staff had recommended to the growers' attorney that the petition not be filed, because of insufficient evidence. "This wasn't even a close call," Mr. Bolton says. But Democratic Rep. Leon Panetta, whose California constituents include rose growers, says, "I think Lake had an influence. That's for damn sure. He's a heavy."

Obviously, by the time the USTR rendered his decision on our 301 petition, it was too late for us to achieve much further support for our legislative position in the 99th Congress.

It is our view the 301 case failed to receive due consideration by the USTR. Little agency action has produced any relief for the industry yet we continue to lose market share in spite of everything we do to improve our competitive position.
There are no other answers; no alternatives for us to follow. Now we urge that the House Ways and Means Committee act to follow up on the H. R. 4800 report language that states, "....If the Committee later decides that there has been insufficient attention to this problem it will consider further legislative action."

Now is the time for that action and passage of H. R. 750.

James C. Krone
Executive Vice President
Roses Incorporated
P. O. Box 99
Haslett, MI 48840
(517) 339-9544

March 5, 1987

ROSES INC. STATEMENT IN SUPPORT OF H. R. 750

APPENDIX A

WHAT HAS THE ROSE INDUSTRY DONE IN WASHINGTON TO SEEK RELIEF?

THE DOMESTIC ROSE GROWERS HAVE BEEN VIGILANT IN INVOKING THE DOMESTIC LAW REMEDIES PROVIDED BY CONGRESS TO SECURE AN ALLEVIATION OF THE STEADILY INCREASING LOSS OF THE DOMESTIC MARKET TO IMPORTS, BUT WITH ONE EXCEPTION THOSE REMEDIES HAVE PROVED INEFFECTIVE BECAUSE OF ADMINISTRATIVE ACTIONS WHICH FAIL TO CARRY OUT THE INTENT OF THE CONGRESS.

(a) Escape clause actions.

(i) In 1977, on application of the Society of American Florists, the International Trade Commission (ITC) carried out an escape clause investigation under Sec. 201 of the Trade Act of 1974 to determine if increased imports of fresh cut flowers were causing or threatening serious injury to the domestic floricultural industry. Roses Inc. participated with testimony on the issues. The ITC decided in the negative in August 1977.

(ii) In November 1979, Roses Incorporated petitioned the Commission to conduct an escape clause investigation to determine if the domestic rose growers were being seriously injured or threatened with serious injury by increased imports of fresh cut roses. In April 1980 the Commission again decided in the negative.

(b) Countervailing duty actions.

(i) In 1974, the Treasury Department conducted a countervailing duty investigation against fresh cut flowers from Colombia, in which it determined that the Government of Colombia was subsidizing its growers with benefits valued at 10.2% of the dutiable value of imports from that country. Countervailing duties were not imposed, however, because the Government of Colombia diverted the funds from the growers to a Government organization to assist the producers in their exports. The industry received no benefit from that investigation, notwithstanding the unfair advantage which the subsidies granted the Colombian flower growers by that Government conferred upon them in competing in the U. S. market.

(ii) In January 1980, the domestic rose growers through Roses Incorporated initiated twin countervailing duty investigations against subsidized exports of roses to the U. S. from the Netherlands and Israel. The Netherlands case was subject to the injury test, but not the Israeli. (Israel had not signed the international agreement which requires the U. S. to add the injury test to countervailing duty investigations.) The Netherlands case was washed out by the International Trade Commission in February 1980 with a negative determination of injury. The roses from Israel case matured into a countervailing duty determination of net subsidies of 1.5%. Roses Incorporated appealed that decision to the Court of International Trade which remanded the case to the International Trade Administration (ITA) to re-investigate three particular subsidies. The ITA did so, and this time found that when correctly investigated, those subsidies amounted to 11.5%.

The present countervailing duty deposit rate stands at 22.56%. This rate, and countervailing duties assessed in the past, certainly understate the true extent of Israeli subsidization of roses since the Government of Israel has refused to respond to the agency's questionnaires concerning actual subsidy levels and since the Court of International Trade last year found the agency had improperly excluded certain subsidies from its past calculations.

(iii) In August 1982, the International Trade Administration initiated, at the request of selected grower members of the American Farm Bureau, and Roses Incorporated, a new countervailing duty investigation on roses and other fresh cut flowers (except miniature carnations) from Colombia. In November 1982, the ITA preliminarily determined that the Colombian government, under a program known as "CAT", was subsidizing its flower growers to the tune of 5% of the value of the product exported to the United States. In January 1983, however, the U. S. Government again deprived their floriculture industries of the corrective benefits against unfair competition from imports by suspending the investigation. The ITA determined not to impose countervailing duties on the basis of a suspension agreement under which Colombian growers accounting for 85% of exports to the U. S. agreed to renounce the benefits they received under the CAT program.

The Colombian growers, however, have found ways to circumvent the obligations they assumed under the suspension agreement, raising a serious question of whether effective monitoring of the suspension agreement is truly possible. In early 1984 it was learned that the Colombian government adopted another grower support program known as "CERT." This program established support to Colombian growers for flower (rose) exports to countries other than the United States. By its very structure, and Colombia's existing exports to non-U. S. markets, we feel the Colombian grower now receives just as much support from his government as he did before the earlier 5% program was suspended.

Under the "CERT" program, Colombian growers are given a 25% subsidy for exports of roses and other cut flowers to countries other than the U. S. and only 1% for exports to the U. S. In addition to having the effect of providing Colombian growers with subsidy income equal to the old "CAT" program suspended by the ITA, they have circumvented U. S. countervailing duty trade laws and caused U. S. growers to lose market share in our only export market, Canada.

(iv) Subsidized roses from Mexico escaped the imposition of countervailing duties when the Commerce Department in 1984, under its so called "general availability" rule, refused to countervail the subsidies since they are also available to other Mexican horticultural sectors. Roses' appeal of that decision is presently pending before the Court of International Trade. That court, indeed, has recently overruled the Department's "general availability" rule in other cases and Roses anticipates a favorable ruling on its appeal. Nonetheless, subsidized Mexican roses continue to enter the United States and be liquidated without countervailing duties being imposed.

(c) Antidumping duty action.

In June, 1981, Roses Incorporated filed an antidumping duty petition against fresh cut roses from Colombia, based on an independent market research study and information gathered from the domestic growers and Department of Agriculture production statistics, and Department of Commerce import statistics. In June, 1981, the Department of Commerce, after ex parte conferences with representatives of the Colombian Embassy and the Colombian growers, dismissed the petition without investigation. Roses Incorporated appealed the dismissal to the Court of International Trade, which in April, 1982, ruled that the Commerce Department acted unlawfully in refusing to investigate the alleged dumping of Colombian roses into the United States market. The Commerce Department appealed this decision to the Court of Appeals for the Federal Circuit. While the Court of Appeals ruled that the Court of International Trade could not order the agency to institute an investigation, it did affirm the decision by the Court of International Trade that the Commerce Department's dismissal of the petition was unwarranted. The Court of Appeals then provided Roses Inc. with the option of filing a new petition.

On September 30, 1983, Roses Incorporated filed a new antidumping duty petition. The Commerce Department International Trade Administration found dumping was taking place; however, on August 28, 1984, the International Trade Commission ruled in a final determination that the rose industry was not being injured, thus ending the investigation. This decision is now being appealed by Roses Incorporated in the U. S. Court of International Trade.

(d) Legislation

In the 97th, 98th, and 99th Sessions of Congress, bills have been introduced that would bring the U. S. duties on roses on to a comparable footing with those of the European Economic Community (EEC).

The bills were considered in hearings before the Senate Finance Committee on Trade and the House Ways and Means Subcommittee on International Trade, but failed to clear the appropriate subcommittees for floor action in the 97th and 98th Sessions.

Bill numbers in the 97th Congress were H. R. 6239 and S. 2466, and in the 98th Congress H. R. 1146 and S. 1296, and in the 99th Congress H. R. 1701 and S. 2389.

(e) Petition to the United States Trade Representative (USTR) under Section 301 of the Trade Act of 1984.

During the summer of 1985, a 301 petition was developed alleging a wide range of unfair trade practices by major rose exporting countries. Preliminary copies of this petition were reviewed with USTR representatives and, following extensive revisions, was filed with the USTR on August 5, 1985.

ROSES INC. STATEMENT IN SUPPORT OF H. R. 750 - APPENDIX A (cont.)

The petition noted, among other things, that the advantage enjoyed by Dutch producers by the high EEC tariffs on rose imports is augmented by their government's provision of natural gas subsidies (a complaint also raised frequently by other EEC countries); that only the 301 remedy is available to counter Mexican government benefits conferred on roses since the agency had refused to countervail these benefits on the basis that other agricultural sectors also receive the benefit; that the Colombian export subsidy practices described above which unfairly distort trade have thus far not been addressed by the agency and are therefore best addressed in government-to-government negotiations; that Israel, in addition to subsidizing its rose production and exports, avoids the imposition of countervailing duties in the United States by transshipping its roses through European auctions; and that Guatemala, Dominican Republic and Costa Rica also subsidize their expanding rose industries.

The petition alleged that the effect of the unfair practices was to limit U. S. exports of fresh cut roses, and to increase imports to the U. S., both directly and as a result of diversion to the U. S. of third country exports.

The USTR determined not to initiate the investigation requested, stating several of the unfair practices had been terminated or found not to exist; some unfair practices had already been dealt with in countervailing investigations; many were not adequately supported by information; and, in several allegations, it was claimed we failed to show the burden to U. S. commerce, or the causal link between the practice and effect.

In the petition, Roses Inc. had brought together the best information available to us and within our financial means to produce, especially considering most of the pertinent proof is in the hands of those who would be the last to share it with us. Likewise, the USTR representatives met with, or had communications with, representatives from Colombia, Guatemala, and the Netherlands in which some alleged unfair practices were refuted without allowing Roses Inc. to comment or expand upon these issues.

In 1986 Congressman Leon Panetta, with support from members of the House Ways and Means Subcommittee on Trade, was able to get the USTR to review his late 1985 decision on this case. After months of deliberations, and delays, which cost our industry valuable time in the closing days of the 99th Session of Congress that could have been spent supporting the trade bill Mr. Panetta had introduced, the USTR disclosed his review supported his original decision NOT to conduct an investigation.

The USTR's office did, however, offer to investigate a natural gas subsidy received by the Dutch growers, which they said was "overlooked" in their original consideration of the case. It was felt by our counsel that this subsidy would not be worth supporting and we respectfully declined the USTR's offer, feeling our resources could be better spent addressing issues that hold possibilities of real relief.

#####

U.S. House of Representatives
Committee on Ways and Means
Subcommittee on Trade

March 6, 1987

Statement by Leslie Alan Glick, Esq.
Duncan, Allen and Mitchell, Washington, D.C.
On Behalf of Visaflor S.A. and Transamerica Floral Imports
In Opposition to H.R. 750

Introduction

This statement is submitted on behalf of Visaflor S.A. and its affiliated company, Transamerica Floral Imports, by Leslie Alan Glick, a partner in the law firm of Duncan, Allen and Mitchell, Washington, D.C., as legal counsel in opposition to H.R. 750. Visaflor S.A. is a Mexican producer of fresh flowers, predominantly roses. Transamerica is a U.S. corporation affiliated with Visaflor which imports roses into the United States.

The proposed bill, H.R. 750, would raise the duties on imported roses "consistent with those maintained by the European Economic Community on imports of roses from the United States and other nations." The duty would be raised from its present level of 8% ad valorem to as high as 24% ad valorem. This is a 200-300% increase in duty. Such a duty increase would not only be inconsistent with U.S. tariff obligations bound in GATT negotiations, but such a drastic increase on an agricultural product, specifically directed to the European Economic Community, would likely touch off another potential trade war with the Community. The EEC in 1979 granted a concession for "off season" rose imports and bound other rates at prior levels. An increase in the U.S. duty would undoubtedly lead to retaliation. Such a trade war was recently narrowly averted and neither the U.S. nor the European Community would benefit from the chain of retaliation and counter-retaliation that is likely to result from such a bill. Moreover, although the bill appears to be focused on retaliation against the EEC, it would affect all rose imports into the United States, including such developing countries as Mexico.

Background

H.R. 750 is essentially identical to H.R. 1701 introduced in 1985. The previous bill was referred to the House Ways and Means Committee on March 25, 1985. Comments were received from various federal agencies from May to July 1985. No action was taken on the bill and it died when the 99th Congress adjourned. The same legislation was also introduced unsuccessfully in the 98th Congress. Since the current bill is the same as the previous bill, and since there have not been significant new events since May 1985 that would change the situation, we feel that the analysis in the May 23, 1985 memorandum to the Ways and Means Committee from the U.S. International Trade Commission (ITC) is still relevant. The ITC found that U.S. rose production had dramatically increased from 1983 to 1984. The ITC report indicated that U.S. flower producers were shifting production into roses from other flower varieties. The ITC found that U.S. consumption of roses from 1980 to 1984 "increased steadily" (ITC Report at p. 10). Thus, the U.S. rose industry is expanding production in a growing market and is not being injured.

The ITC noted that the present U.S. duty rate for roses reflects concessions made by the United States as part of GATT negotiations. If the duty was raised, GATT member countries that export roses, including the Netherlands, Colombia, Israel, and Mexico, could make complaints under the GATT dispute settlement mechanisms. Under GATT rules, if the U.S. were to raise a duty on a bound item, such as roses, it would have to give compensatory concessions on other products to the affected countries or face retaliatory withdrawal of benefits to the U.S. in concessions made by other GATT countries.

U.S. Rose Producers are not being injured.

U.S. rose producers seek to disrupt U.S. trade with other countries and subject other U.S. products to retaliation to serve their selfish myopic ends of eliminating fair competition in the U.S. The U.S. rose industry has been largely unsuccessful in its various trade actions against imported roses: in Investigation 731-TA-148 (final), the U.S. International Trade Commission determined that the U.S. rose-producing industry was not being injured by imports of fresh-cut roses from Colombia. Since Colombia is the largest exporter of roses to the U.S., if the International Trade Commission found that roses from Colombia were not a cause of injury or threat of injury to the U.S. industry, then certainly imports from Mexico and other countries were not causing injury. The ITC also found that imports of roses were not a substantial cause of serious injury or threat thereof to a domestic industry in an escape clause investigation (TA-201-42, USITC Pub. No. 1059). In another investigation of roses from the Netherlands, 701-TA-24 (preliminary), the ITC even dismissed the case at the preliminary stage finding "no reasonable indication that a U.S. industry was being materially injured." Since the injury threshold at the preliminary investigation level at the ITC is quite low and very few cases are dismissed at this stage, it is further evidence that the U.S. industry is not being injured. In another case, 731-TA-43 (preliminary), the petition was dismissed by the Department of Commerce (46 F.R. 33678). In a countervailing duty investigation of roses and other cut flowers from Colombia under the countervailing duty law, the Israeli exporters agreed to give up any government subsidies and entered into a suspension agreement (ITC Report at 3).

Subsidies were alleged to have been given to Mexican producers as well but the Commerce Department found no countervailable subsidies and issued a final negative determination on April 16, 1984 (49 F.R. 15007). The U.S. rose producers also have attempted to request several 301 investigations which were filed with the U.S. Trade Representative and rejected (see 133 Cong. Record E267, January 27, 1987). Last year, the U.S. flower producers also brought a series of dumping and countervailing duty cases against many flower-producing countries. Roses were excluded from the petitions. The reason for this exclusion of roses is quite obvious. The U.S. producers, having been rejected in previous efforts by the ITC and USTR, know they cannot prove injury. Instead, they have attempted to increase the duty through pressure in the Congressional branch, after having their pleas rejected for lack of merit by various U.S. governmental agencies charged by Congress with the function of making determinations on duty increases when injury is alleged. Congress should accept the delegation of authority to these agencies, and not perform an "end run" by passing legislation to accomplish what these capable agencies have refused to do.

It is also worthy to note that Mexico exports many patented varieties of roses that are produced from plants bought in France under license. These types, which include "Marella, Cocktail, Koba, and Meispola" varieties, are not even produced in the U.S. and, therefore, cannot be injured by Mexican imports.

Although the bill appears to be directed to EEC exports, the impact of this proposed bill on Mexico would be quite devastating. In 1986, Mexico exported $2,619,400 in roses to the U.S. out of a total of $45,831,840*; this accounted for less than 6% of total U.S. imports. While we do not have figures for domestic production in 1986, even assuming that domestic production was the same in 1986 as 1984 ($144 million), Mexico's share of total U.S. consumption was 1.3%.

Mexico is a Latin American debtor nation with huge outstanding debts to U.S. banks. Exports are the only source of dollars for Mexico to repay these loans, other than more borrowing from the IMF and other world lending organizations. Default on these loans would have a disastrous effect on the U.S. economy. This was apparently recognized by Congress in H.R. 3, the new Omnibus Trade Bill sponsored by numerous members of Congress. This bill has a special section on Latin American debtor nations that requires that they receive more benefits under the Generalized System of Preferences. If it is the intent of the numerous members of Congress and this Committee who also sponsored H.R. 3 to give more duty-free benefits to Mexico under the Generalized System of Preferences, then it should be removing the current 8% duty on roses altogether, not raising it to 17% or 24%!

In conclusion, this bill, H.R. 750, makes no sense whatsoever, in terms of overall U.S. trade policy. It is inconsistent with U.S. obligations under the GATT, with findings of the U.S. International Trade Commission, and with proposals in the Omnibus Trade Bill. Recently, after years of U.S. encouragement, Mexico has joined the GATT. It would be ironic if the U.S. was to reward Mexico by violating its own GATT obligations by raising the bound tariff rate on roses.

* There were roses under this TSUS 192.1890 "roses, not specifically provided for." Mexico had no exports of sweetheart roses under TSUS 192.1850.

H.R. 794

To permit free entry into the United States of the personal effects, equipment, and other related articles of foreign participants, officials, and other accredited members of delegations involved in the games of the Tenth Pan American Games to be held in Indianapolis, Indiana, in 1987.

No statements submitted.

H.R. 894

Relating to the tariff classification of certain work gloves.

STATEMENT OF RICHARD A. RIVKIN, EXECUTIVE VICE PRESIDENT, LATEX GLOVE CO., INC.

Introduction

Industrial work gloves are a necessary tool for production. The market for work gloves, as well as other personal safety products, has developed in close step with the development of the American industrial economy in the twentieth century. Many traditional types of work gloves have manufacturing features similar to other articles of apparel, i.e. glove components are cut from raw material stock and sewn into finished gloves. Virtually by definition this is a labor-intensive manufacturing process.

The early 1960's brought tremendous industrial growth to the American economy and, with it, increased demand for work gloves. As a direct result of increased demand and shrinking barriers to world trade, work glove imports began to grow in the early-mid 1960's. Cotton work gloves were among the early products covered by the Long Term Arrangement for trade in cotton textiles and apparel (LTA). When the LTA was replaced in 1973 by the Multi-Fiber Arrangement (MFA), all types of fabric work gloves were identified as being subject to existing or potential import restraints.

In 1975, the trade association of the domestic work glove industry, the Work Glove Manufacturers Association (WGMA) filed a complaint with the United States International Trade Commission (USITC) under section 201(b) of the Trade Act of 1974. This case, TA-201-9, alleged that imports of

work gloves, including textile, leather, rubber and plastic gloves, caused or threatened to cause market disruption. The USITC found that neither market disruption or the threat or market disruption existed.

In 1977, the WGMA filed another complaint with the USITC under section 406(a) of the Trade Act of 1974 alleging that imports of cotton work gloves from the People's Republic of China caused market disruption. Again the USITC made a negative determination.

We have reason to believe that the H.R. 894 has been introduced at the request of the WGMA in an attempt to apply the existing control mechanism for textile gloves to non-textile gloves, namely gloves of rubber or plastic.

I. Brief Historical Perspective of the Work Glove Industry

It is generally recognized that the beginning of the work glove industry was in Ohio in 1884 when the Clausing family began manufacturing work mittens from bed ticking material. By the end of the nineteenth century, cotton work gloves were being reinforced with leather for longer wear and better worker protection.

The market for cotton, leather, and cotton/leather combination gloves rapidly expanded by offering buyers a wide variety of designs, patterns, sizes, and weights of gloves.

However, the one feature that all of these gloves had in common was that the glove parts were cut from raw material stock, either fabric and/or leather, and sewn with a sewing machine. It is interesting to note that among apparel manufacturers, gloves are considered one of the most difficult products to sew. Unlike garments with long relatively straight seams, gloves require many short curved seams and must be sewn to produce a three-dimensional product from a two-dimensional process.

In the mid 1930's, glove manufacturers experimented with producing a lined liquidproof glove by dipping a cotton work glove in natural rubber latex. Previously, liquidproof gloves had been produced by dipping a porcelain or metal hand form in liquid rubber resulting in an unlined glove like a surgical or household glove. The development of the dip coated glove resulted in greater liquidproof protection for the wearer because the vulcanized bond between the rubber and fabric lining added to the overall strength of the product.

In the early 1950's, glove manufacturers developed impregnated gloves by coating or impregnating a base fabric with polyvinyl chloride (PVC) plastic and then cutting the resulting fabric into glove parts for sewing and finishing. Such products offered the buyer a longer-lasting product with the comfort and fit of a textile glove.

Latex Glove Co., Inc., has been in the industrial glove industry for 50 years. The company was started in 1936 as an early manufacturer of dip coated gloves but such manufacturing was discontinued during World War II. Both during and subsequent to the manufacturing phase of operations, Latex Glove distributed the products of other manufacturers in order to serve customer needs. As a family business, Latex Glove is now in the third generation of management and has expanded its sphere of operations worldwide.

In the early 1960's, Latex Glove was one of the industry leaders in importing work gloves to meet the demands of industrial buyers for lower cost hand protection. As a major importer, Latex Glove has carefully developed its product line and constantly maintained open lines of communication with the United States Customs Service with respect to the proper classification of the products imported. For the record, imported work gloves account for slightly less than two-thirds of Latex' total sales.

II. Description of Various Types of Industrial Gloves and the Intended Purposes of Each

Fabric work gloves offer the buyer the widest possible variety of materials, designs, sizes and styles. Fabric gloves, primarily cotton, are the traditional basic industrial glove. Unfortunately, few if any technological

improvements are possible in the production of cut/sewn fabric gloves. In fact, the most recent developments in the fabric glove industry are the introduction of automatically knit gloves. These products are manufactured on equipment invented and developed in Japan.

Leather work gloves represent the first basic improvements over conventional fabric gloves. Since leather is stronger than fabric, it follows that leather gloves would be stronger than fabric gloves. Leather/cotton combination gloves represent the largest segment of the leather glove market. All leather gloves are primarily used for welding and other high temperature applications as well as traditional drivers' work gloves for truck drivers.

Because both fabric and leather gloves are produced by cut/sewn methods, glove designs can be modified for specific industrial applications. The flexibility of this process lends itself to short production runs if necessary.

Impregnated gloves were developed to improve on noted deficiencies of fabric and leather gloves. Specifically, most impregnated gloves offer the wearer an improved grip, superior abrasion resistance, dexterity, washability, and comfort. These benefits are possible because the rubber or plastic material impregnated to the base fabric can be custom compounded to achieve the desired results. In most industrial

applications where grip and abrasion are significant hand protection concerns, an impregnated glove will last much longer than a fabric glove and possibly as long as certain leather gloves thereby reducing the ultimate glove cost per labor man hour.

Dip coated gloves were developed and are marketed primarily as liquidproof protection for the wearer. Modern rubber and plastic technology has resulted in glove dipping compounds with performance characteristics targeted for specific industrial applications. Dip coated gloves are not considered to be general purpose hand protection and are rarely found to effectively replace fabric, leather, or impregnated gloves in the marketplace.

III. There is No Reason to Consider Any Rubber or Plastic Gloves as Textile Gloves

The intent of H.R. 894 is to consider gloves of rubber or plastic, except seamless gloves, as textile gloves. This is totally contrary to historical practices in the trade and in government. A simple analogy would be to consider this proposed legislation as intending to call an apple an orange when it has always been an apple.

The United States Department of Commerce maintains statistics on domestic work glove production in publication MA-23D. This publication separates production data for

various types of work gloves. Standard Industrial Classifications (SIC) for fabric work gloves are 2381222, 2381224, 2381232, and 2381234. SICs for rubber and plastic work gloves are 2381238.

In addition, the United States International Trade Commission considered textile gloves separate from gloves of rubber or plastic in USITC deliberations leading to CERTAIN GLOVES, Report to the President on Investigation No. TA-201-9 Under Section 201 of the Trade Act of 1974, USITC Publication 760, Washington DC, March 1976. While this report supports importers' contentions that certain products within the work glove industry are somewhat interchangeable at the end user level, nowhere in the report does the USITC suggest that gloves of rubber or plastic should be considered as textile gloves.

The domestic work glove producers themselves acknowledge that dipped supported and impregnated work gloves are separate from textile work gloves. Enclosed as exhibit A is a report prepared by the Work Glove Manufacturers Association (WGMA), the domestic industry trade group. This report clearly delineates dipped supported (dip coated) and impregnated gloves as a separate sector of the industry rather than as part or subpart of the textile glove sector.

In addition, the manufacturers of rubber and plastic

impregnated and dip coated gloves themselves identify their companies as separate from textile glove producers. Three major producers, Edmont, Pioneer and Best, do not produce any textile gloves other than for their own use as linings for dipping gloves. Two other producers, Jomac and North, offer textile gloves as well as gloves of rubber or plastic. However, their marketing approaches for the latter products are designed to promote the specific features and applications of their rubber and plastic impregnated and dip coated gloves rather than characterize the products as textile gloves with a few insignificant modifications.

The Congress, in deliberations and legislation creating and amending the Tariff Schedules of the United States Annotated (TSUSA), clearly identified gloves of rubber or plastic as products separate from textile products as long as the coating is nontransparent and that the textile nature of the outer surface is lost by the addition of the coating. Specifically, Headnote 5(a) to Schedule 3 TSUSA provides:

> 5. (a) Except as otherwise provided in subsection (b) of this headnote, for the purposes of parts 5, 6, and 7 of this schedule and parts 1 (except subpart A), 4, and 12 of schedule 7, in determining the classification of any article which is wholly or in part of a fabric coated or filled, or laminated, with nontransparent rubber or plastics (which fabric is provided for in part 4C of

> this schedule), the fabric shall be regarded not as a textile material but as being wholly or rubber or plastics to the extent that (as used in this article) the nontransparent rubber or plastics forms either the outer surface of such article or the only exposed surface of such fabric.

Further evidence that such rubber or plastic gloves should not be considered as textile gloves is found in the legislative history to Headnotes 4 and 5, Schedule 3, TSUSA, which was placed in the TSUSA by the Technical Amendments Act of 1965. The Senate Report discussing the meaning of these Headnotes included the following.

> Essentially, the changes provide that articles made of this fabric will be dutiable as textile articles to the extent that the textile fabric forms the outer or exposed surface of the article. Conversely, to the extent the nontransparent rubber or plastics forms the outer surface, the article will be treated as being of rubber or plastics, as the case may be.

A more detailed explanation of the differentiation between textile fabrics and articles and rubber/plastic fabrics and articles was found in the report of the House of Representatives.

Textile fabrics which have been coated or filled or laminated with rubber or plastics are made to many specifications for a wide variety of uses. The fabrics are usually made of cotton or rayon and the most common coating, filling, or laminating substance is rubber or vinyl plastics. The vinyl-covered fabrics (sometimes referred to as "supported" vinyls) are often made in finished which simulate leather. For some purposes, the rubber or plastics may cover both surfaces of the textile fabric, but for most purposes the rubber or plastics is applied to one surface only. Usually the rubber or plastic is opaque and completely obscures the textile fibers or yarns in the fabrics, but occasionally it is transparent and does not do so. These rubber- or plastic-covered fabrics are used in making rainwear, hunting jackets, footwear, headwear, gloves, luggage, handbags, furniture, and other articles. In the final product, the "textile" surface of the fabric may form the only exposed surface of the fabric, thereby lending to the article to the extend used therein the essential characteristic of a woven or knit textile fabric, or, on the other hand, such surface may form the inner surface of the article or be hidden or buried so that it is only the rubber- or plastic-covered surface which gives character to the finished product...

Subsection (a) would amend the definition of "textile

materials" in headnote 2(a) of schedule 3. Under subparagraph (iv) of headnote 2(a) the fabrics in question are specifically identified as "textile materials". The proposed amendment takes into account the consideration mentioned above that the textile characteristics of these fabrics may be completely lost in the final product. For example, simulated leather suitcases and gloves made of a "supported" vinyl bear no outward resemblance to a textile product. Thus the proposed amendment of headnote 2(a) would exclude such fabrics from the defined concept of "textile materials" and provide for their being regarded as wholly of rubber or plastics to the extend that, as used in the luggage, gloves, or other article made therefrom, nontransparent rubber or plastics forms either the outer surface of the article or the only exposed surface of the fabric.

Since the gloves in question are manufactured with a textile lining either as the shell for coating dip coated gloves or as the base for coating or laminating impregnated cut/sewn gloves, Headnote 2, Subpart C, Part 1, Schedule 7, TSUSA is applicable.

In determining the component material in chief value in gloves --

(a) lining and applied cuffs shall be disregarded

Therefore, the Congress has clearly established the applicable criteria by which gloves of rubber or plastics should be classified. First, the coating must be non-transparent. Second, the outer surface must not have a textile nature.

The United States is a signatory to the Arrangement Regarding International Trade in Textiles, also known as the Multi-Fiber Arrangement (MFA). This document, negotiated under the auspices of the General Agreement on Tariffs and Trade and originally adopted on December 20, 1973, sets forth a multilateral international framework for trade in textile and apparel products. All of the bilateral textile agreements between the United States and other countries as well as all unilateral textile restraints imposed by the United States on exports of other countries are in accordance with the MFA.

Article 12 of the MFA defines the textile and apparel products covered by the arrangement. Specifically, paragraph 1 of article 12 reads as follows.

> 1. For the purposes of this Arrangement, the expression "textiles" is limited to tops, yarns, piece-goods, made-up articles, garments and other textile manufactured products (being products which derive their chief characteristics from their textile components) of

cotton, wool, man-made fibres, or blends thereof, in which any or all of the fibres in combination represent either the chief value of the fibres or 50 per cent or more by weight (or 17 per cent or more by weight of wool) of the product.

The reclassification of work gloves of rubber or plastic as textile gloves irregardless of the chief value and chief weight provisions of the MFA would be a violation of an international agreement to which the United States is a party. In addition, the classification of these gloves as proposed by H.R. 894 would necessarily subject the gloves to the quantitative import restraints, quotas, of the textile program. The primary imports of rubber and plastic impregnated and dip coated work gloves are from Hong Kong and the People's Republic of China and both of these countries have existing bilateral restraints covering textile work gloves. It is reasonable to expect that, in the event that H.R. 894 becomes law, both Hong Kong and China would request an increase in their quota levels for textile gloves to account for the historical trade in gloves of rubber or plastic, impregnated or dip coated.

IV. There is a Clearly Established Trade in Rubber or Plastic Gloves Within the Clear Definitions of the Tariff Schedules of the United States Annotated

The Headnotes to Schedules 3 and 7 of the TSUSA, as explained in section 3 above, clearly establish the necessary criteria for gloves of rubber or plastic to be considered as such rather than as textile gloves. The obvious intent of the language, interpretation, and enforcement of these headnotes is to consider as textile gloves such products that may have a thin, transparent coating that adds virtually nothing to the essence of the glove. Certainly one must acknowledge that textile, rubber, and plastic technology is such today that a razor-thin film could be coated or laminated to a fabric which might alter the chief value determination. However, such an obvious attempt to circumvent classification as a textile glove would fall short of meeting the stringent criteria of non-transparency and non-textile surface. The wisdom of the authors of these Headnotes is apparent.

Transparency is defined as transmitting light rays so that the objects on the other side can be distinctly seen. This means other than opaque or translucent. The inclusion of the word "distinctly" in the dictionary definitions of transparency clearly indicate that the process of distinctly seeing through a transparent object is a naked eye process without magnification. In many binding rulings involving plastic impregnated work gloves, the United States Customs Service continuously applied a naked eye test to determine if the yarns of the base fabric could be seen as distinctly

through the coating as on the uncoated side. Using this determination within the guidelines of the TSUSA Headnotes, the Customs Service has, since at least 1973, issued rulings classifying vinyl impregnated gloves as gloves of rubber or plastic.

Exhibit B includes copies of binding rulings issued since 1973 to Latex Glove Co., Inc., as well as to another leading importer, Magid Glove Mfg. Co. In many of these rulings Customs used language to the effect that such merchandise had been previously held to be classified as gloves of rubber or plastic. Since all of the gloves that were the subjects of these rulings were vinyl impregnated cut/sewn work gloves, it is apparent that Customs has not had a problem with the classification of these products and therefore there is no basis for the legislative correction incorporated in H.R. 894.

In 1972, the Customs Court ruled, in the case of Magid Manufacturing Company v. United States, 69 Cust. Ct. 119, C.D. 4381 (1972), that dip coated gloves were properly classified as gloves of rubber or plastic, other.

As the import data collected by the domestic manufacturers (WGMA) shows, imports of rubber and plastic gloves have grown over the past decade. These shipments have been properly classified by the United States Customs Service

as gloves of rubber or plastic in accordance with the guidelines set forth by the TSUSA Headnotes as well as the binding rulings issued to importers.

Specifically, Latex Glove Co., Inc., has compiled a partial tally of shipments of plastic impregnated work gloves entered and liquidated by Customs over a period of the past nine years at four major ports of entry in the United States. That list totals 169 shipments. Another leading importer has tallied 135 entries of similar gloves during the period from 1980 through 1984. Clearly an established, uniform practice exists which shows no objective need for legislative modification.

V. Recommendation

If H.R. 894 becomes law, there will be significant changes in the work glove industry. The most immediate effect would be the likely cessation of any imports of rubber or plastic impregnated or dip coated gloves. We would expect that the countries whose exporters ship these gloves to the United States to be unwilling to permit shipments of previously non-quota rubber and plastic gloves as quota-restricted textile gloves unless and until the United States agrees to increase the glove quota levels to account for

quantities of rubber and plastic gloves historically shipped. Since this is unlikely to happen, rubber and plastic gloves will have to "compete" for the right to be exported from source countries and therefore the cost to the importer and the ultimate consumer for this "right" will increase.

It is also reasonable to expect that the exporting countries will file a complaint against the United States with the Textiles Surveillance Body (TSB) of the General Agreement on Tariffs and Trade in Geneva. While one cannot predict the decision of the TSB in such a case, one could contemplate the reaction of the United States Government faced with the possibility that American law would be in conflict with a potential negative determination by the TSB, a body which the United States is pledged to support.

In addition, if H.R. 894 becomes law and such gloves are classified as textile gloves, the import duty will increase from 14% to 25%. However, when coupled with significantly reduced imports of such gloves, there will be a net revenue loss to the United States.

If H.R. 894 becomes law, a very dangerous precedent will be set in which product definitions can be legislatively altered in order to satisfy and serve a limited self-centered constituency. The domestic work gloves manufacturers, including firms with whom Latex Glove has had excellent

business relationships for decades, have continued to use the protection granted by import restraints on textile gloves as a pretense for expanding the import restraints to encompass all work gloves. This certainly was not the intent of the MFA or its enabling legislation, both of which envisioned controls on textile and apparel trade to be temporary measures to permit industries to adjust.

If H.R. 894 becomes law, the American industrial user and therefore the American consumer will pay the price of increased protectionism. The intent of H.R. 894 is clearly not to clarify the classification of work gloves. The intent is to bring non-textile products under textile quota controls. This is inappropriate, unfair, unjust, and unnecessary.

If H.R. 894 becomes law, underdeveloped countries would have further evidence that the United States intends to restrict importations of labor-intensive products such as textiles and apparel thus depriving those countries of additional means to earn the foreign exchange necessary for both their internal development as well as repayment of foreign debts.

We expect that evidence may be presented to the Subcommittee alleging the importation of textile work gloves with miniscule plastic coatings in an attempt to circumvent

fabric glove quota restrictions. Like all other responsible importers, Latex Glove abhors any attempted fraud or circumvention of textile quotas and proper tariff classification. However, we believe that the historical intent of the Congress was clear when the TSUSA Headnotes were drafted. The criteria exist for proper classification of work gloves of rubber or plastic. We share the domestic industry's concern for the uniformly enforced trade laws. In addition, we believe that if the American work glove manufacturers concentrated their efforts and financial resources less on stopgap short-sighted legislative remedies and more on further technological improvements in glove materials and manufacturing processes, a truly fair trade in work gloves would evolve.

In conclusion, the deliberate attempt to misclassify rubber and plastic gloves as textile gloves is, in our opinion, the wrong way to achieve otherwise noble goals of a competitive world market. We therefore respectfully request that the Subcommittee on Trade determine and recommend to the Committee on Ways and Means of the U.S. House of Representatives that H.R. 594 is not in the best interests of the United States of America and should not become law.

EXHIBIT A

PRODUCTION/IMPORT REPORT OF THE WORK GLOVE MANUFACTURERS

WGMA

Domestic Manufacture & Imports Compared

TEXTILE WORK GLOVES

Shipments (In 1,000 doz. pairs)

Year	1974	1979	1980	1981	1982	1983	1984	1985*
Dom. Mfg.	24,353	24,634	18,054	17,251	14,132	13,503	15,412	14,402
Imports	3,251	10,430	10,063	11,519	12,033	13,178	17,212	17,665
Total	27,604	35,064	28,117	28,770	26,165	26,681	32,624	32,067
Imp. % Total	12%	30%	36%	40%	46%	49%	53%	55%

Notes: Man-made fiber work glove imports included for 1984 and 1985

100% LEATHER WORK GLOVES

Shipments (In 1,000 doz. pairs)

Year	1974	1979	1980	1981	1982	1983	1984	1985*
Dom. Mfg.	1,983	2,041	1,779	1,771	1,747	1,615	1,750	1,575
Imports	122	478	532	480	588	817	1,342	1,020
Total	2,105	2,519	2,311	2,251	2,335	2,432	3,092	2,595
Imp. % Total	6%	19%	23%	21%	25%	34%	43%	39%

LEATHER PALM WORK GLOVES

Shipments (In 1,000 doz. pairs)

Year	1974	1979	1980	1981	1982	1983	1984	1985*
Dom. Mfg.	1,859	1,222	953	921	898	831	873	794
Imports	1,516	3,083	2,636	2,533	2,526	2,462	3,541	3,222
Total	3,375	4,305	3,589	3,454	3,424	3,293	4,414	4,016
Imp. % Total	45%	72%	73%	73%	74%	75%	80%	80%

* Domestic Manufacture data estimated using indices from WGMA reporting program. Import data estimated using year-to-date 11/85 percent changes as indices.

WGMA

Domestic Manufacture & Imports Compared

DIPPED SUPPORTED AND IMPREGNATED WORK GLOVES

Shipments (In 1,000 doz. pairs)

Year	1974	1979	1980	1981	1982	1983	1984	1985*
Dom. Mfg.			5,600	6,121	4,962	5,179	6,142	6,771
Imports			1,227	1,184	1,119	1,293	1,838	1,993
Total			6,827	7,305	6,081	6,472	7,980	8,764
Imp. % Total			18%	16%	18%	20%	23%	23%

UNSUPPORTED WORK GLOVES

Import figures are seamless gloves of rubber or plastic; other than surgical and medical gloves (705.8300).

Domestic figures are dipped unsupported gloves greater than 8 mil.

Shipments (In 1,000 doz. pairs)

Year	1981	1982	1983	1984	1985*
Dom. Mfg.	7,280	8,233	8,080	9,963	N/A
Imports	6,097	7,153	8,640	10,673	13,021
Total	13,377	15,386	16,720	20,636	N/A
Imp. % Total	46%	46%	52%	52%	N/A

TOTAL WORK GLOVE SHIPMENTS EXCLUDING DIPPED UNSUPPORTED

Shipments (In 1,000 doz. pairs)

Year	1980	1981	1982	1983	1984	1985*
Dom. Mfg.	26,386	26,064	21,739	21,128	24,177	23,542
Imports	14,458	15,716	16,266	17,750	23,933	23,900
Total	40,844	41,780	38,005	38,878	48,110	47,442
Imp. % Total	35%	38%	43%	46%	50%	50%

* Domestic Manufacture data estimated using indices from WGMA reporting program. Import data estimated using year-to-date 11/85 percent changes as indices.

EXHIBIT B

CUSTOMS SERVICE RULINGS ON GLOVES OF RUBBER OR PLASTIC

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
WASHINGTON

NOV 1974

REFER TO
CLA-2:R:CV:MA
74-036364 c

Mr. Richard A. Rivkin
Executive Vice-President
Latex Glove Co., Inc.
934 West Huron Street
Chicago, Illinois 60622

Dear Mr. Rivkin:

In a letter dated September 11, 1974, you inquired as to the dutiable status of a work glove manufactured in Hong Kong. A sample was submitted for examination.

The sample glove is made from a vinyl impregnated cotton fabric and has a cotton fabric sidewall running along the side of the little finger.

Schedule 3, Part 4, Subpart C, Headnote 2(a), Tariff Schedules of the United States (TSUS), provides that "for the purposes of the tariff schedules--the term 'coated or filled', as used with reference to textile fabrics and other textile articles, means that any such fabric or other articles has been coated or filled (whether or not impregnated) with gums, starches, pastes, clays, plastics materials, rubber, flock, or other substances, so as to visibly and significantly affect the surface or surfaces thereof otherwise than by change in color, whether or not the color has been changed thereby."

Whether a coating which changes the surface of a fabric is visible otherwise than by reason of that change of color is a subjective determination for which objective tests have proven inadequate. As a general guideline, a coating is not considered visible if the yarns on both the coated and uncoated surfaces of that fabric are equally discernible to the naked eye. A partial obscurity of the yarns caused by a coating of rubber or plastics will result in the fabric being coated for tariff purposes. Thus, if the yarns on the coated surface are visible, but clearly not as visible in detail as the yarns on the uncoated surface, the fabric is considered coated.

An examination of the sample glove shows that as a result of the impregnation the yarns are obscured and thus the fabric is considered coated for tariff purposes.

Schedule 3, Headnote 5, TSUS, provides that "for the purposes of parts 5, 6, and 7 of this schedule and parts 1 (except Subpart A), 4 and 12 of Schedule 7, in determing the classification of any article which is wholly or in part of a fabric coated or filled, or laminated, with nontransparent rubber or plastics (which fabric is provided for in Part 4C of this schedule), the fabric shall be regarded not as a textile material but as being wholly of rubber or plastics to the extent that (as used in the article) the nontransparent rubber or plastic forms either the outer surface of such article or the only exposed surface of such fabric."

Noting the above, it is our opinion that the sample glove is classifiable under the provision for gloves of plastics with textile fabric fourchettes or sidewalls in item 705.85, TSUS, and dutiable at the rate of 15 percent ad valorem.

Sincerely yours,

Arthur P. Schiffler

For Salvatore E. Caramagno
Director
Classification and Value Division

6

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
WASHINGTON

JUN 26 1979

REFER TO
CLA-2:R:CV:MA
062277 c

Mr. Richard A. Rivkin
Executive Vice-President
Latex Glove Co., Inc.
934 West Huron Street
Chicago, Illinois 60622

Dear Mr. Rivkin:

In a letter dated May 9, 1979, you inquired as to the dutiable status of a glove manufactured in Hong Kong. A sample was submitted for examination.

Our response to your inquiry is contained in the enclosed ruling.

Sincerely,

for Salvatore E. Caramagno
Director
Classification and Value Division

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
WASHINGTON

JUN 26 1979

REFER TO
CLA-2:R:CV:MA
062277 c

This ruling concerns the tariff classification of a glove manufactured in Hong Kong.

FACTS:

The sample, style YK-7918, is a glove made of woven cotton fabric impregnated with an opaque plastic. A cotton sidewall is included and runs from the cuff edge to within 1/2-inch of the tip of the little finger.

ISSUE:

The tariff classification of the glove.

LAW AND ANALYSIS:

Item 705.85, Tariff Schedules of the United States (TSUS), provides for gloves of rubber or plastics with textile fabric fourchettes or sidewalls. The applicable rate of duty is 15 percent ad valorem.

HOLDING:

The sample glove is dutiable at the rate of 15 percent ad valorem under item 705.85, TSUS.

Sincerely,

for Salvatore E. Caramagno
Director
Classification and Value Division

DEPARTMENT OF THE TREASURY
BUREAU OF CUSTOMS
WASHINGTON

FEB 1 1973

REFER TO
R:CV:MA 474.712 c
024625

Mr. Sheldon Cohen
Magid Glove Manufacturing
Company, Inc.
201 West Wabansia Avenue
Chicago, Illinois 60647

Dear Mr. Cohen:

In a letter dated December 6, 1972, you inquired as to the dutiable status of plastic gloves manufactured in Hong Kong.

The sample submitted is a glove made of PVC impregnated cloth which has a textile fabric sidewall.

Gloves represented by the sample are classifiable under the provision for gloves of plastics with textile sidewalls, in item 705.85, Tariff Schedules of the United States, and dutiable at the rate of 15 percent ad valorem.

Sincerely yours,

Arthur P. Schaffner

For The Director
Classification and Value
Division

DEPARTMENT OF THE TREASURY
BUREAU OF CUSTOMS
WASHINGTON

JUN 19 1973

REFER TO
R:CV:MA
474.712 DB
026483

Mr. Sheldon Cohen
Magid Glove Mfg. Co., Inc.
2201 West Wabansia Avenue
Chicago, Illinois 60647

Dear Mr. Cohen:

Reference is made to your letter of March 12, 1973, in which you requested tariff classification of a certain glove from Taiwan. A sample was submitted.

The submitted sample is a work glove. The palm, the thumb and the back of the index finger of the glove are plastic. The back of the glove is of a cotton fabric and a cotton sidewall is sewn into the length of the glove.

The submitted glove, if in chief value of plastic, is classifiable under item 705.85, Tariff Schedules of the United States (TSUS), the provision for gloves of rubber or plastics, with textile fabric fourchettes or sidewalls, with a rate of duty of 15 percent ad valorem.

Sincerely yours,

Arthur P. Schaffner

For The Director
Classification and Value
Division

DEPARTMENT OF THE TREASURY
BUREAU OF CUSTOMS
WASHINGTON

SEP 5 1973

REFER TO
CLA-2:R:CV:MA DR
474.712
028625

Mr. Sheldon Cohen
Magid Glove Manufacturing Co., Inc.
2201 West Wabansia Avenue
Chicago, Illinois 60647

Dear Mr. Cohen:

Reference is made to your letter dated June 26, 1973, concerning the tariff classification of a plastic glove sample manufactured in Taiwan.

The sample submitted is a plastic work glove with a textile fabric sidewall extending the length of the smallest finger to the hem which is also made of a textile fabric.

The subject glove is classifiable under the provision for gloves of plastic with textile fabric fourchettes or sidewalls, in item 705.85, Tariff Schedules of the United States, and dutiable at 15 percent ad valorem.

Sincerely yours,

Arthur P. Schaffner

For the Director
Classification and Value
Division

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
WASHINGTON

FEB 22 1974

REFER TO
CLA-2:R:CV:MA c
474.712
031651

Dear Mr. Cohen:

In a letter dated December 31, 1973, you inquired as to the dutiable status of certain work gloves manufactured in Taiwan. A sample was submitted for examination.

The sample glove subitted has plastic impregnated material for the palm, thumb and back of the index finger. The backs of the remaining fingers and the sidewall are of cotton textile.

If the sample glove is in chief value of plastic, it is classifiable under the provision for gloves of plastics with textile fabric sidewalls in item 705.85, Tariff Schedules of the United States (TSUS), and dutiable at the rate of 15 percent ad valorem.

If the sample glove is in chief value of cotton, it is classifiable under the provision for gloves of vegetable fibers, woven, in item 704.40, TSUS, and dutiable at the rate of 25 percent ad valorem.

Gloves classifiable under item 704.40, TSUS, may be subject to international trade agreements. If you desire information with regard to statistical suffixes and textile or apparel categories, it is suggested that you write directly to the Appraisement and Collections Division, U.S. Customs Service, enclosing a copy of this letter with your inquiry.

Sincerely yours,

Arthur P. Schaffner

For Salvatore E. Cannmagno
Director
Classification and Value Division

Mr. Sheldon Cohen
Magid Glove Manufacturing Co., Inc.
2201 West Wabansia Avenue
Chicago, Illinois 60647

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
WASHINGTON

MAR 18 1974

REFER TO
CLA-2:R:CV:MA c
465.262
032814

Dear Mr. Cohen:

In a letter dated March 6, 1974, you inquired as to the dutiable status of work gloves manufactured in Hong Kong. A sample was submitted for examination.

The sample glove submitted has a one piece plastic impregnated palm, a one piece plastic impregnated back, and a cotton textile sidewall.

It is our opinion that the sample is classifiable under the provision for gloves of rubber or plastics with textile fabric sidewalls, in item 705.85, Tariff Schedules of the United States, and dutiable at the rate of 15 percent ad valorem.

Sincerely yours,

Arthur P. Schaffer

For Salvatore E. Caramagno
Director
Classification and Value Division

Mr. Sheldon Cohen
Magid Glove Manufacturing Company, Inc.
2201 West Wabansia Avenue
Chicago, Illinois 60647

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
NEW YORK, N.Y.

SEP 8 1982

REFER TO
CLA-2-07:S:C:D8:81-780
803728

Dear Mr. Lewis:

In a letter dated July 19, 1982, you inquired as to the dutiable status of gloves produced in China.

The sample is a seamed vinyl glove with a textile fourchette. It appears that the material from which the glove is constructed is a vinyl coated fabric. The external surface of the glove consists of the vinyl portion except with respect to the fourchette where the textile fabric forms the outer surface.

The glove is classifiable under the provision for gloves of rubber or plastics, seamed, with textile fabric fourchettes in item 705.85, Tariff Schedules of the United States, and dutiable at the rate of 14.6 percent ad valorem.

This ruling is being issued under the provisions of Section 177.1(a)(1) of the Customs Regulations [19 C.F.R. 177.1(a)(1)].

Sincerely,

Alice M. Rigdon

Alice M. Rigdon
Acting Area Director
New York Seaport

Mr. Samuel Lewis
Magid Glove and Safety Manufacturing Co.
2060 North Kolmar Avenue
Chicago, Illinois 60639

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
WASHINGTON, D.C. 20229

OCT - 2 1986

CLA-2 CO:R:CV:G
077637 JNB

District Director of Customs
909 First Avenue
Seattle, Washington 98174

Re: Decision on Protest and Application for Further Review
Number 3001-5-000422

Dear Sir:

The above noted protest and application for further review was filed by counsel for protestant Latex Glove Co., Inc., of Northbrook, Illinois. At issue is the classification of a plastic-coated cotton glove which is imported from Hong Kong.

Customs claims that the glove is properly classifiable as gloves ... : of vegetable fibers: made from a pre-existing machine-knit or -woven fabric, or any combination of such fabrics: woven, under the provisions of item 704.40, Tariff Schedules of the United States (TSUS), dutiable at the rate of 25 percent ad valorem. Importation under this tariff provision of a glove which is the product of Hong Kong is subject to the restrictions of quota category 331, in that a visa from the country of origin must be obtained in order to permit its entry into the United States.

Protestant claims that the glove is properly classifiable as gloves of rubber or plastics: other, under the provisions of item 705.86, TSUS, dutiable at the 1985 rate of 19.3 percent ad valorem. Any glove classifiable under this tariff provision is not subject to quota restrictions.

FACTS:

On May 21, 1985, protestant Latex Glove filed entry number 85-432126, covering a shipment of subject glove style 122/4244M. On August 7, 1985, redelivery of the shipment was requested because Customs found protestant's claimed classification to be incorrect. Protestant entered the gloves under the classification of other gloves of plastic under the provisions of item 705.86, TSUS. Customs determined that these gloves were more properly classifiable as gloves of vegetable fibers under item 704.40, TSUS. Additionally, classification of the gloves under the textile provision imposed visa requirements on their entry into the United States. Inasmuch as no visas had been obtained, redelivery was requested. This protest and application for further review was timely filed in response to the denial of entry.

ISSUE:

Is the glove properly classifiable as gloves of rubber or plastics under item 705.86, TSUS, or as gloves of vegetable fibers, under item 704.40, TSUS, and thereby subject to visa requirements pursuant to textile quota category 331?

ANALYSIS:

Style Number 122/4244M is composed of a base fabric of plain woven cotton. Both sides of the base fabric have been napped. The exterior of the base fabric is coated with yellow plastic, with the exception of the back of the three middle fingers which is coated with an orange plastic. Textile fibers from the nap penetrate through the coating. Tactilely the sample is furry or fuzzy. The weave construction is barely visible through the plastic.

A uniform and established practice exists to classify this style of glove as gloves of rubber or plastic. See Customs Ruling Letters of December 19, 1973 (Control No. 029939) and September 16, 1986 (Control No. 077460).

HOLDING:

Pursuant to a uniform and established practice, glove style 122/4244M is classifiable as gloves of rubber or plastics: other, under the provisions of item 705.86, TSUS, dutiable at the 1985 rate of 19.3 percent ad valorem. Gloves classifiable under this tariff provision are not subject to quota restrictions.

Accordingly, the protest is allowed. A copy of this decision should be given to the protestant when notice of action is given on Customs Form 19.

Sincerely,

Harvey B. Fox
Director, Classification
and Value Division

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
WASHINGTON

REFER TO

10 OCT 1986

CLA-2 CO:R:CV:G
076162 JNB
812883

Mr. Richard A. Rivkin
Executive Vice President
Latex Glove Co., Inc.
310 Huehl Road
Northbrook, Illinois 60062

Dear Mr. Rivkin:

This is in response to your request for reconsideration of New York Ruling Letter of March 5, 1985, (Control No. 811996), which held that a vinyl-coated knit cotton work glove from China was classifiable as a glove of cotton, not woven, under item 704.45, Tariff Schedules of the United States (TSUS), dutiable at the rate of 25 percent ad valorem. Under such classification, the glove would be subject to the import restrictions of textile category 331.

The palm, thumb and index finger of the glove are made from plastic-coated fabric. The back of the fingers and the applied cuff are not coated.

Customs has held that gloves which are coated with nontransparent plastic on the palm and inside of the fingers are classifiable as gloves of rubber or plastic pursuant to a uniform and established practice. See Customs Ruling Letter of December 19, 1973, (Control No. 029939). Additionally, Customs has held, without making reference to the existence of a practice, that partially coated gloves are classifiable as gloves of rubber or plastics if their component material of chief value is plastic as opposed to textile. See Customs Ruling Letters of June 19, 1973 (Control No. 026483); February 22, 1974 (Control No. 031651); and January 3, 1975 (Control No. 037515). The subject partially coated glove, if in chief value of rubber or plastic, must be classified in a manner consistent with the noted rulings.

Accordingly, if in chief value of plastic, the glove is classifiable as gloves of rubber or plastic, under item 705.86, TSUS, dutiable at the 1986 rate of 16.6 percent ad valorem.

If the glove is in chief value of textile, it is classifiable as gloves ... : of vegetable fibers: made from a pre-existing machine-knit or -woven fabric, or any combination of such fabrics: not woven, under the provisions of item 704.45, TSUS, dutiable at the rate of 25 percent ad valorem.

New York Ruling Letter of March 5, 1985, supra, is modified so as to be consistent with this letter.

Sincerely,

For Harvey B. Fox
Director, Classification
and Value Division

Mr. Joseph K. Dowley, Chief Counsel
Committee on Ways and Means
U. S. House of Representatives
Room 1102
Longworth House Office Building
Washington, DC 20515

Re: Comments on H.R. 894

Dear Mr. Dowley:

Shelby Group, Inc. is a domestic manufacturer and importer of work gloves. We are a major factor in the work glove industry with a 10-15% market share. We employ 390 people with 240 directly in glove manufacturing and 150 employed in sales and distribution. I personally have been in the industry for over 15 years.

H.R. 894 would treat certain gloves which are made of over 50% plastic or vinyls as textile gloves, thereby subjecting them to textile quotas. These gloves have always been considered as plastic gloves by U. S. Customs, as well as manufacturers. The only reason for H.R. 894 to redefine these plastic gloves as textiles is to benefit a rather minor part of the domestic glove industry. Only a handful of U. S. companies make these plastic gloves. The majority of the production is either in Hong Kong, China or the Caribbean. The bill would greatly reduce the imports from Hong Kong and China as quotas for textile gloves are already filled. But, the domestic production will not boom because there are so many other low labor countries who could produce these simple items at a much lower cost and many of these countries do not have quotas or they do not have fully utilized quotas. In addition, if sufficient quantity could not be supplied from these countries tne Caribbean would fill the gap. It is doubtful that this would add any jobs in the U. S. A. I know we would not be willing to train new workers for these jobs. I suspect that a few strong supporters of this bill plan to increase their production in the Caribbean, where no quotas have been set. I doubt their sincerity if the supporters of this bill say it would add jobs in the U. S. A.

Secondly, the textile quotas are based on historic data of textile imports and of course the bill is not requiring quotas to be reevaluated and increased based on historic data which includes these plastic gloves. This is unfair! It is not in agreement with the promises we have made in our MFA agreements, and countries will retaliate because they will not let the U. S. A. redefine previously accepted agreements. If the bill does pass, other countries will have no choice but to threaten trade wars and I expect this will lead to reversal of the bill in the end. Unfortunately, this would cause mass confusion in the industry to the benefit of no one - at least none of us in the U. S. A. We will have spent a lot of unproductive time changing and then reversing that which should not have been changed in the first place. We Americans should be spending our time and money on R & D, and expanding our businesses into more technical - higher wage industries.

This brings me to another point. These plastic gloves are not a vital industry to the U. S. A. If we keep protecting all our industries, we will keep all of our low skill, low wage, and low profit jobs. If a free economy is to work well, we must keep recycling these jobs into new areas to find higher skill, higher wages, and higher profit opportunities. It is difficult to face the low skilled citizens of this country when they are losing their jobs. But, the solution is not to give them low skilled jobs but to give them training and education so they can get better jobs. There are very few advances made in sports, industry, or government without sacrifices. The saying 'there must be some pain before gain' is true in all areas.

Finally, The fifteen day effective date reinforces the intent of the bill's supporters to financially harm others in our industry as well as the foreign manufacturers who have contracted in good faith. It would take at least 120 days to clean up the raw materials and finished goods in the pipeline, and this would complete only half of the contracts we have signed.

In summary, this is a grossly unfair bill that was designed to benefit only a few people in our industry. This type of special interest legislation will not be good for America and this bill should be killed in your Committee.

Please advise if I can be of any assistance.

Sincerely,

Hilliard Crews

Hilliard Crews
President
Shelby Group Int'l., Inc.
P.O. Box 171814
Memphis, TN 38187-1814
(901) 795-5810

HC/sf

March 6, 1987

Mr. Joseph K. Dowley, Chief Consel
Committee on Ways and Means
U. S. House of Representatives
Room 1102
Longworth House Office Building
Washington, DC 20515

Dear Mr. Dowley:

Per your press release #3, dated February 13, 1987, I would like to submit comments in reference to H.R. 894 (Mr. Duncan), a bill relating to the classification of certain types of work gloves.

Introduction:

I am Richard L. Alderson, President of West Chester Marketing, Inc. and West Chester Sales and Marketing, Inc. of Fairfield, Ohio. Both corporations are engaged in the sales of industrial work gloves. We represent a domestic manufacture of cotton work gloves and also import other types of work gloves, including gloves of rubber and plastics, which are under attack in H.R. 894.

I have been in the industrial work glove industry since 1972, and therefore, feel qualified to comment on our industry.

History:

Innovation and progress is sometimes neutralized by parties with special interest as in the case of coated textile fabrics. There is no argument that by impregnating or coating of textile fabrics, the textile fabric is enhanced and takes the form of an entirely different product with different uses and applications. Take for example the plastic coated work glove, which enables the wearer to submerge his hands in liquid without leakage. The addition of coatings and impregnations, not only provide liquid proof protection for workers, but also provides cut and abrasion resistance characteristics which are mandatory for the safety of many workers. It has never been the intent of Congress to restrict progress or innovation which gives the American worker additional safety protection or additional value for his money. This is evidenced by the House of Representatives Report No. 342, 8th Congress, First Session, concerning the Tariff Schedules Technical Amendments Act of 1965. The following is an excerpt from that report.

"The vinyl-coated fabrics (sometimes referred to as "supported" vinyls) are often made in finishes which simulate leather. For some purposes, the rubber or plastics may cover both surfaces of the textile fabric, but for most purposes the rubber or plastics is applied to one surface only. Usually the rubber or plastics is opaque and completely obscures the textile fibers or yarns un the fabrics, but occasionally it is transparent and does not do so . . . In the final product, the "textile" surface of the fabric may form the outer surface of the article or the only exposed surface of the fabric, thereby lending to the article to the extent used therein the essential characteristic of a woven or knit textile fabric, or, on the other hand, such surface may form the inner surface of the article or be hidden or buried so that it is only the rubber - or plastic - covered surface which gives character to the finished product."

"The proposed amendment takes into account the consideration mentioned above that the textile characteristics of these fabrics may be completely lost in the final product. For example, simulated leather suitcases and gloves made of a "supported" vinyl bears no outward resemblance to a textile product. Thus, the proposed amendment of Headnote 2 (a) would exclude such fabrics from the defined concept of "textile materials" and provide for their being regarded wholly of rubber or plastics to the extent that, as used in the luggage, gloves, or other articles made therefrom, non-transparent rubber or plastics forms either the outer surface of the article or the only exposed surface of the fabric."

Recent Market Conditions Which Led To This Legislation:

With the recession of the early 1980's, the domestic production capacity of textile work gloves had been reduced and with the revival of the economy the demand for textile gloves increased to the point that in 1984 all textile quota allotments from the Far East Countries were being exhausted. It was during this period that some importers mis-used the "gloves of rubber and plastics" classification to by-pass the quota restriction allocations for gloves of textile fabrics. It is agreed that during this period of 1983 through 1986 that U. S. Customs was dealing with some ambiguity in regard to the tariff classification of these types of work gloves. This mis-use was very limited but did cause U. S. Customs to react and virtually recall all items imported under classification TSUS 705.8600. We had approximately 15,000 dozen pairs of gloves recalled and subsequently filed a formal protest and application for further review Number 4102-5-000019. After one year of testimony hearings and review, it was determined in October of 1986 that all of our merchandise was properly classified under TSUS 705.8600 and should not require quota.

Subsequent Events:

The Tariff Schedules of 1987 have been amended to include the following new clasification of:

Containing 50% or more by weight of cotton, man-made fibers, or vegetable fibers, or any combination thereof:
-705.8505 - Subject to Cotton Restraints (331)
-705.8510 - Subject to Man-Made Fiber Restraints (631)
-705.8815 - Other (831)

With the new classifications within the Tarift Schedules, the ambiguity has been eliminated and U. S. Customs now has been given clear guidelines for the classification of these types of gloves; thus eliminating the need for this legislation.

Other:

Should your committee not agree with these points and proceed with this legislation, I urge you to change Section 2 of this Act. Section 2 calls for an effective date of fifteen days after the date of enactment which would put a severe hardship on us and other legitimate importers and foreign manufacturers. Open orders and goods in progress would take a minium of ninety days to complete. Please note that these orders have been placed in compliance with all current regulations and in good faith and

there is no valid reason for placing this kind of hardship on those involved.

I would like to further point out that by placing these items under quota restriction, it would not necessarily reduce the quantity being imported, but would mainly serve the interests of those people holding the larger quota allotments.

Summary:

I believe that prior to the Tariff Schedules being revised in 1987, there was some validity to H.R. 894 in respect to removing the ambiguity from the classification process. However, in light that the ambiguity has already been removed, this Bill should be killed in Committee.

I would appreciate being kept aware of the fate of this legislation and, of course, would be available to answer any questions or assist in any way possible.

Sincerely,

Richard L. Alderson

Richard L. Alderson, President
West Chester Marketing, Inc.
211 Donald Drive
Fairfield, Ohio 45014
(513) 829-5005

RLA:jp

Statement By
Work Glove Manufacturers Association
In Support Of H.R.894

I. INTRODUCTION

The Work Glove Manufacturers' (WGMA) membership consists of most U.S. producers of work gloves, some 33 glove producing companies and 30 supplier companies. WGMA members construct work gloves in whole or in part of textile fabrics, leather, rubber, and plastic. WGMA members operate in at least 19 states.*

H.R.894 was introduced by Congressman Duncan on January 29, 1987. The proposed legislation amends the Tariff Schedules of the United States (TSUS) to clarify the definition of textile work gloves. The clarification is necessary because the present Tariff Schedules lack clarity with regard to the proper classification of a certain type of textile work gloves. These work gloves are constructed of textile fabric that is coated, filled, impregnated, or laminated, in whole or part, with rubber or plastics. Termed coated fabric work gloves, these gloves are being classified under non-textile as well as textile tariff provisions. Because all of these work gloves are essentially textile products, the proposed legislation explicitly defines them as articles of textile materials, thus ensuring that they are classified under the proper tariff provisions.

This statement emphasizes the following important points:

1. Coated textile fabric work gloves are inherently textile products and have the essential characteristics of textile based on their appearance, construction, and function.

2. The Customs Service has great difficulty in the accurate and uniform enforcement of classification rules and guidelines such that many coated fabric work gloves have been entered not under the appropriate textile glove categories but rather under a lower duty "rubber and plastics" category which is not covered by quota restraints.

3. Continuing circumvention tactics by importers have exacerbated the problem of ensuring consistent and proper classification of coated fabric work gloves.

4. The proposed legislation clarifies the tariff treatment of coated fabric work gloves through a headnote addition which states that they should be treated for Tariff Schedules purposes as the textile products which they are.

5. Because it is a measure to clarify product classification within the current Tariff Schedules and to combat circumvention, the bill should not raise significant trade agreement problems among exporters. However, any legitimate trade effect can be dealt with through routine trade procedures.

6. Only work gloves are affected by this measure. Dress gloves -- which are designed to simulate leather and which are structurally different from work gloves in that they have fourchettes between all of the fingers and a sidewall along the outside of the little finger -- are not affected.

* California, Connecticut, Georgia, Illinois, Indiana, Iowa, Maine, Massachusetts, Michigan, Mississippi, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas and Wisconsin.

7. The U.S. work glove industry is already hard pressed by imports, and the current coated fabric work glove classification problems are making this situation worse.

8. The House passed this legislation in the 99th Congress as part of H.R.5686. The Administration had no objections to its passage.

II. COATED TEXTILE FABRIC WORK GLOVES ARE FUNDAMENTALLY TEXTILE PRODUCTS

The essential reality underlying this bill is that work gloves made out of coated textile fabric are textile products and ought to be treated as such in the tariff schedule. The production of these gloves begins with a textile fabric which is then coated, impregnated, or otherwise treated with a rubber or plastic compound. It should be emphasized that the resulting coated textile fabric is considered in the Tariff Schedules to be a textile product. Congress has been explicit in specifying this.* This textile product is then cut into pieces of appropriate shape which are sewn together to form the final textile product -- the coated fabric work glove.

The textile character of the gloves is evident either through a simple visual examination or an analysis of their structure and functions. The fabric construction is obviously clear by the presence of easily-seen multiple seams by which the various fabric pieces are sewn together. The fabric nature of the product is also quite clear merely by looking at the exterior surface and is unambiguous when putting the gloves on since the untreated cloth side of the fabric is immediately felt against the skin. Indeed, the exposed cloth surface of the coated fabric against the hand is what the wearer is most conscious of.

Besides being evident in their appearance, the basic textile characteristic of the coated fabric gloves is clear in their function. First, there would be no glove if there were no fabric to which a coating or impregnation could be applied; structurally, the gloves are made from a fabric without which no glove could be sewn together.

Second, the soft fabric surface laying against the hand provides a first line element of hand protection -- which is the primary reason for wearing work gloves.

Third, the particular characteristics of textiles are important in giving these gloves their superior performance. For example, the product catalogues of the glove producers and importers -- including those of the major importers, such as Cardinal Glove Co. and Latex Glove Co. -- specifically emphasize the benefits afforded by the gloves due to their textile character. The catalogue of Latex Glove Co. emphasizes the good fit resulting from the "comfortable knit fabric." It further highlights the comfortable stretch quality only available with coated fabric gloves in one category heading -- "S-T-R-E-T-C-H Gloves" -- and notes: "Tough vinyl coating bonded to knit fabric stretches to fit."

* See Section III of the Trade and Tariff Act of 1984, PL 98-573.

The chief weight and chief value of coated fabric work gloves can be either textile or rubber/plastic depending upon the particular glove type. Generally the balance in terms of these criteria is close. As noted below, the opportunity for manipulation of chief weight and chief value makes classification reliance on them ripe for the tariff circumvention tactics which have been so frequently associated with coated fabric work gloves.

The textile character of the coated gloves is further evidenced by the fact that these gloves are used for the same purposes as plain textile gloves and are marketed based on their superior grip, abrasion resistance, and durability. The Latex Glove Company catalogue refers to the coated gloves as "General Purpose Gloves" and described them as:

> "An all around favorite for general purpose use. Premium PVC impregnated on strong cotton base fabric lasts much longer than untreated fabric gloves."*

III. PROBLEMS WITH CUSTOMS SERVICE CLASSIFICATION OF COATED FABRIC WORK GLOVES

Given the basic textile character of these coated fabric work gloves, the U.S. industry is very concerned that the Customs Service has great difficulty in the accurate and uniform enforcement of classification rules and guidelines such that many coated fabric work gloves have been entered not under the appropriate textile glove categories but rather under a lower duty "rubber and plastics" category which is not subject to textile quota.** It appears that Customs is attempting to find guidance for its classifications in the language of Headnote 5(a) of Schedule 3 which makes reference to whether a coating or impregnation on a coated fabric "as used in the article" is "nontransparent."

Fundamental problems exist with regard to Customs' effort to make classifications on the basis of Headnote 5(a). The clear legislative intent of the phrasing was to apply it -- as stated in the relevant House Report*** -- when "the textile characteristics of these [coated] fabrics

---

* Id. Importers have attempted to create the impression that the use of the term "rubber or plastic" in government or industry labels associated with these gloves is conclusive proof that they are in no way textile products. The superficiality and incorrectness of this argument is obvious. As with many products, a descriptive term relating to one of the product's attributes may be used as a shorthand label for it even when the label does not convey the product's overall character. The phrase "rubber or plastic" as applied to coated work gloves is merely a shorthand way to avoid reiterating the unwieldily phrase "rubber or plastic coated textile fabric work gloves."

** Those coated fabric work gloves classified as rubber or plastic products under TSUS 705.86 are currently subject to a duty of only 16.6 percent rather than the proper textile categories' duties which range from 15.7 percent plus 14¢/lb. to 25 percent depending on the particular textile category involved.

*** Tariff Schedules Technical Amendments Act of 1965, House Report No. 342, 89th Congress, 1st Session, Section 13(3), p. 779.

may be completely lost in the final product." As detailed above, the coated fabric work gloves clearly maintain their "textile characteristics." These work gloves are not intended to convey the impression of being anything other than work gloves constructed out of coated textile fabric and are, therefore, quite distinct from other products such as those of "simulated leather." The coated work gloves ought always to have been treated as textile products.

WGMA members are aware that at different times the same coated work glove type has been classified as textile in some Customs ports and plastic in others. Customs directives on this subject are clearly not consistently applied and, for all practical purposes, cannot be consistently applied because of the great subjectivity inherent in the application of Headnote 5(a). The result is a substantial degree of uncertainty for all parties concerned.

There are obvious problems with applying Headnote 5(a) to coated fabric work gloves. As inherently textile products, they should not be covered by it. When it is applied to them, the not surprising result is great subjectivity and uncertainty as to how it should be interpreted. The proposed legislation cleanly resolves these problem by clarifying the textile nature of these gloves.

IV. CIRCUMVENTION TACTICS ON IMPORTED COATED FABRIC WORK GLOVES

Continuing circumvention tactics by importers have exacerbated the problem of ensuring proper classification of coated fabric work gloves. The difficulties described above regarding Customs' classification of these gloves make it all the more easy for those who wish to shift their products into tariff categories which have lower duty rates or which are not covered by a textile quota agreement. The continuing uncertainty about what constitutes "opacity" or how apparent a textile fiber must be before it is "discernible" permit foreign glove producers to make minor, non-functional changes to their gloves -- such as a darker pigment in the compound -- to ensure classification as rubber or plastic gloves.

There is very clear evidence that, in the absence of the proposed legislation, such circumvention will continue to take place. Current importers of these gloves include importers which were previously guilty of blatant circumvention tactics regarding the application of a "token fabric fourchette or sidewall" to these very coated fabric work gloves in order to enter them at a reduced duty. It was only with legislation that this specific circumvention was halted* and it will only be through the proposed legislation that future circumvention tactics can be halted.

V. THE PROPOSED LEGISLATION: H.R. 894

The proposed legislation -- H.R. 894 -- solves the various problems cited above through a clarifying amendment which ensures Tariff Schedules treatment of coated fabric work gloves purposes as the textile products which they are. The proposed legislation makes two amendments to the Tariff Schedules: First, it inserts into Headnote 5(a) of Schedule 3 an addition to that headnote's existing list of product areas not to be covered by the headnote, thus explicitly removing coated fabric work gloves from Headnote 5(a)

* Section 113 of the Trade and Tariff Act of 1984.

coverage. Second, an addition to a headnote in Schedule 7 explicitly states that coated fabric work gloves shall be regarded as gloves of textile materials, thus directing that they should be classified among the textile work glove categories according to their fiber content, just as is currently done with plain textile work gloves.

VI. NO SIGNIFICANT PROBLEMS SHOULD ARISE UNDER THE UNITED STATES' INTERNATIONAL AGREEMENTS

As a measure to clarify product classification within the current Tariff Schedule and to combat circumvention, the bill should not raise significant trade agreement problems among exporters. However, any legitimate trade effect can be dealt with through routine trade procedures.

It is within the rights of the United States under the Multifiber Arrangement (MFA) and its bilateral textile agreements to take measures to clarify its tariff treatment of a product and to counter duty circumvention tactics. It has long been the policy of the United States that compensation was unnecessary in such cases. However, the WGMA realizes that to the extent that legitimate trade is shifted to tariff categories subject to bilateral textile restraint agreements, the Executive Branch may have to examine the possibility that certain quota adjustments might be necessary. Clearly, there exists a well established administrative machinery for resolving any such questions.

VII. THE SCOPE OF THE PROPOSED LEGISLATION IN STRICTLY LIMITED TO COATED FABRIC WORK GLOVES

Only coated fabric work gloves are affected by the proposed legislation. Dress gloves -- which are designed to simulate leather and which are structurally different from work gloves in that they have fourchettes and sidewalls -- are not affected. Thus, the scope of H.R.894, as modified, is strictly limited to the coated fabric work gloves in question.

VIII. THE U.S. WORK GLOVE INDUSTRY IS IMPORT SENSITIVE

The U.S. work glove industry is already hard pressed by imports, and the current coated fabric work glove classification problems are making this situation worse. Across all categories of work gloves, the U.S. industry is facing growing competition from foreign producers which are gaining increasing shares of the U.S. market. The effect has been to reduce the number of U.S. companies which make these products and to reduce employment in companies which still do so. This import impact has frequently been concentrated in geographic areas already hard hit with import-related unemployment problems. Firms in the industry are typically small- to medium-sized establishments and are located throughout the United States. Minorities, both racial and women, comprise a major portion of the work force in this industry.

These problems are clearly evident both among those companies making coated fabric work gloves and also among those companies which produce the fabric which receives the coating.

Imports of these gloves appear to be increasing rapidly. Coated fabric work gloves which Customs classifies as rubber or plastic products are currently entered in TSUS 705.86. It is difficult, however, to determine precisely the quantity of imports of these gloves because TSUS 705.86 also contains another category of work gloves not constructed from coated fabric and not affected by H.R.894. Furthermore, until 1985, a quantity of coated fabric work gloves entered under TSUSA 705.8520, a category designed for dress gloves but available for some coated fabric work gloves because of the "token fabric fourchette" circumvention tactic referred to above. In 1984, legislation closing this circumvention loophole resulted in an unknown quantity of work gloves being henceforth entered in TSUS 705.86.

Total U.S. imports of gloves under these two TSUS numbers for the 1982-86 period are shown in the attached table. It is clear that imports under TSUS 705.86 have increased dramatically and reached almost 2.5 million dozen pairs in 1986. The primary countries supplying these gloves are Barbados, Hong Kong, Taiwan, China, and Korea.

Without passage of the proposed legislation, there is a great danger that the health of the U.S. work glove industry will deteriorate further.

VIII. H.R.894 HAS ALREADY BEEN APPROVED BY THE HOUSE OF REPRESENTATIVES AND THE ADMINISTRATION IN THE PRIOR CONGRESS

In the last Congress, WGMA agreed to a scaled back version of the bill recommended by the Commerce Department. This modified bill passed the House of Representatives as part of H.R.5686. Although the Senate did not act on H.R.5686, the WGMA understands that there were no Senate objections to the work glove provision. Thus, the WGMA hopes for expeditious action on H.R.894, a bill which represents the modified approach recommended by the Administration.

IX. CONCLUSION

Clarification is necessary as to the proper treatment of coated fabric work gloves under the U.S. Tariff Schedules. These work gloves are fundamentally textile products as evidenced by their appearance, construction, and use. There have been problems associated with the proper tariff classification of these gloves which only legislation can solve. Application by Customs of current classification criteria leads to the inappropriate classification of such gloves as rubber and plastic products rather than textile products. The proposed legislation, H.R.894, solves the problem by unambiguously acknowledging that coated fabric work gloves are textile products. Because the proposed amendment is intended only to clarify a Customs classification procedure and to prevent circumvention, it should not raise significant trade agreement problems among exporters. Without the legislation, the U.S. work glove industry, which is already under major import pressure, may face significant further deterioration.

U.S. IMPORTS OF COATED FABRIC WORK GLOVES AND DIPPED-SUPPORTED WORK GLOVES, TSUSA 705.8600, 1982-86

1982	1983	1984	1985	1986
364,137	541,312	896,508	2,297,593*	2,460,595

* In 1985, those coated fabric work gloves with "token fourchettes" were reclassified from TSUSA 705.8520 to TSUSA 705.8600. Although the precise amount of the 1985 increase that was attributable to this shift is unknown, it is clear that the total number of coated fabric glove imports increased since the sum of imports in these two TSUSA categories was 2,655,307 in 1984 and 3,011,341 in 1985.

Source: U.S. Department of Commerce.

H.R. 917

To provide for a temporary suspension of duty on sethoxydim for a period of 3 years.

No statements submitted.

H.R. 944

To suspend for a 3-year period the duty on 3-Ethylamino-p-cresol.

No statements submitted.

○